

HOUSE BILL No. 4801

August 18, 2015, Introduced by Reps. Hoadley, Irwin, Heise, Plawecki, Liberati, Pagan and Wittenberg and referred to the Committee on Elections.

A bill to amend 1976 PA 388, entitled
"Michigan campaign finance act,"
by amending section 33 (MCL 169.233), as amended by 2013 PA 252.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

11 (b) A postelection campaign statement shall be filed not later

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

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

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

14 (ii) Not later than October 25 with a closing date of October
15 20 of that year.

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

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

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

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

6 (a) Not later than ~~February 15~~ **JANUARY 31** of each year with a
7 closing date of ~~February 10~~ **DECEMBER 31** of ~~that~~ **THE IMMEDIATELY**
8 **PRECEDING** year.

9 (b) Not later than April 25 of each year with a closing date
10 of April 20 of that year.

11 (c) Not later than July 25 of each year with a closing date of
12 July 20 of that year.

13 (d) Not later than October 25 of each year with a closing date
14 of October 20 of that year.

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

22 (a) Not later than January 31 of each year with a closing date
23 of December 31 of the immediately preceding year.

24 (b) Not later than April 25 of each year with a closing date
25 of April 20 of that year.

26 (c) Not later than July 25 of each year with a closing date of
27 July 20 of that year.

1 (d) Not later than October 25 of each year with a closing date
2 of October 20 of that year.

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

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

15 (5) Notwithstanding subsection (3) or (4) or section 51, if an
16 independent expenditure is made within 45 days before a special
17 election by an independent committee or a political committee
18 required to file a campaign statement with the secretary of state,
19 a report of the expenditure shall be filed by the committee with
20 the secretary of state within 48 hours after the expenditure. The
21 report shall be made on a form provided by the secretary of state
22 and shall include the date of the independent expenditure, the
23 amount of the expenditure, a brief description of the nature of the
24 expenditure, and the name and address of the person to whom the
25 expenditure was paid. The brief description of the expenditure
26 shall include either the name of the candidate and the office
27 sought by the candidate or the name of the ballot question and

1 shall state whether the expenditure supports or opposes the
2 candidate or ballot question. This subsection does not apply if the
3 committee is required to report the independent expenditure in a
4 campaign statement that is required to be filed before the date of
5 the election for which the expenditure was made.

6 (6) A candidate committee or a committee other than a
7 candidate committee that files a written statement under section
8 24(5) or (6) is not required to file a campaign statement under
9 subsection (1), (3), or (4) unless it received or expended an
10 amount in excess of \$1,000.00. If the committee receives or expends
11 an amount in excess of \$1,000.00 during a period covered by a
12 filing, the committee is then subject to the campaign filing
13 requirements under this act.

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

24 (a) Twenty-five dollars for each business day the report
25 remains unfiled.

26 (b) An additional \$25.00 for each business day after the first
27 3 business days the report remains unfiled.

1 (c) An additional \$50.00 for each business day after the first
2 10 business days the report remains unfiled.

3 (8) If a candidate, treasurer, or other individual designated
4 as responsible for the committee's record keeping, report
5 preparation, or report filing fails to file 2 statements required
6 by this section or section 35 and both of the statements remain
7 unfiled for more than 30 days, that candidate, treasurer, or other
8 designated individual is guilty of a misdemeanor punishable by a
9 fine of not more than \$1,000.00 or imprisonment for not more than
10 90 days, or both.

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

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

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

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

12 (13) Not more than 5 business days after seizure of money
13 under subsection (12), the secretary of state shall deliver
14 personally or by registered mail to the last known address of the
15 candidate from whom the seizure was made an inventory statement of
16 the money seized. The inventory statement shall also contain notice
17 to the effect that unless demand for hearing as provided in this
18 section is made within 10 business days, the money is forfeited to
19 this state. Within 10 business days after the date of service of
20 the notice, the candidate may by registered mail, facsimile
21 transmission, or personal service file with the secretary of state
22 a demand for a hearing before the secretary of state or a person
23 designated by the secretary of state for a determination as to
24 whether the money was lawfully subject to seizure and forfeiture.
25 The candidate is entitled to appear before the secretary of state
26 or a person designated by the secretary of state, to be represented
27 by counsel, and to present testimony and argument. Upon receipt of

1 a request for hearing, the secretary of state or a person
2 designated by the secretary of state shall hold the hearing within
3 15 business days. The hearing is not a contested case proceeding
4 and is not subject to the administrative procedures act of 1969,
5 1969 PA 306, MCL 24.201 to 24.328. After the hearing, the secretary
6 of state or a person designated by the secretary of state shall
7 render a decision in writing within 10 business days of the hearing
8 and, by order, shall either declare the money subject to seizure
9 and forfeiture or declare the money returnable to the candidate.
10 If, within 10 business days after the date of service of the
11 inventory statement, the candidate does not file with the secretary
12 of state a demand for a hearing before the secretary of state or a
13 person designated by the secretary of state, the money seized is
14 forfeited to this state by operation of law. If, after a hearing
15 before the secretary of state or a person designated by the
16 secretary of state, the secretary of state or a person designated
17 by the secretary of state determines that the money is lawfully
18 subject to seizure and forfeiture and the candidate does not appeal
19 to the circuit court of the county in which the seizure was made
20 within the time prescribed in this section, the money seized is
21 forfeited to this state by operation of law. If a candidate is
22 aggrieved by the decision of the secretary of state or a person
23 designated by the secretary of state, that candidate may appeal to
24 the circuit court of the county where the seizure was made to
25 obtain a judicial determination of the lawfulness of the seizure
26 and forfeiture. The action shall be commenced within 20 days after
27 notice of a determination by the secretary of state or a person

1 designated by the secretary of state is sent to the candidate. The
2 court shall hear the action and determine the issues of fact and
3 law involved in accordance with rules of practice and procedure as
4 in other in rem proceedings.

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