

HOUSE BILL No. 5067

November 10, 2015, Introduced by Reps. Hoadley, Singh, LaVoy, Guerra, Zemke, Pagan and Plawecki and referred to the Committee on Elections.

A bill to amend 1976 PA 388, entitled "Michigan campaign finance act," by amending sections 24, 32, and 33 (MCL 169.224, 169.232, and 169.233), section 24 as amended by 1999 PA 237, section 32 as amended by 2012 PA 277, and section 33 as amended by 2013 PA 252.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 24. (1) A committee shall file a statement of
2 organization with the filing officials designated in section 36 to
3 receive the committee's campaign statements. A statement of
4 organization shall be filed within 10 days after a committee is
5 formed. A filing official shall maintain a statement of
6 organization filed by a committee until 5 years after the official
7 date of the committee's dissolution. A person who fails to file a

1 statement of organization required by this subsection shall pay a
2 late filing fee of \$10.00 for each business day the statement
3 remains not filed in violation of this subsection. The late filing
4 fee shall not exceed \$300.00. **A LATE FILING FEE ASSESSED UNDER THIS**
5 **SUBSECTION AGAINST A CANDIDATE COMMITTEE SHALL BE PAID BY THE**
6 **CANDIDATE, AND THE CANDIDATE SHALL NOT USE COMMITTEE FUNDS TO PAY**
7 **THAT FEE.** A person who violates this subsection by failing to file
8 for more than 30 days after a statement of organization is required
9 to be filed is guilty of a misdemeanor punishable by a fine of not
10 more than \$1,000.00.

11 (2) The statement of organization required by subsection (1)
12 shall include the following information:

13 (a) The name, street address, and if available, the telephone
14 number of the committee. If a committee is a candidate committee,
15 the committee name shall include the first and last name of the
16 candidate. A committee address may be the home address of the
17 candidate or treasurer of the committee.

18 (b) The name, street address, and if available, the telephone
19 number of the treasurer or other individual designated as
20 responsible for the committee's record keeping, report preparation,
21 or report filing.

22 (c) The name and address of the financial institution in which
23 the official committee depository is or is intended to be located,
24 and the name and address of each financial institution in which a
25 secondary depository is or is intended to be located.

26 (d) The full name of the office being sought by, including
27 district number or jurisdiction, and the county residence of each

1 candidate supported or opposed by the committee.

2 (e) A brief statement identifying the substance of each ballot
3 question supported or opposed by the committee. If the ballot
4 question supported or opposed by the committee is not statewide,
5 the committee shall identify the county in which the greatest
6 number of registered voters eligible to vote on the ballot question
7 reside.

8 (f) Identification of the committee as a candidate committee,
9 political party committee, independent committee, political
10 committee, or ballot question committee if it is identifiable as
11 such a committee.

12 (3) An independent committee or political committee shall
13 include in the name of the committee the name of the person or
14 persons that sponsor the committee, if any, or with whom the
15 committee is affiliated. A person, other than an individual or a
16 committee, sponsors or is affiliated with an independent committee
17 or political committee if that person establishes, directs,
18 controls, or financially supports the administration of the
19 committee. For the purposes of this subsection, a person does not
20 financially support the administration of a committee by merely
21 making a contribution to the committee.

22 (4) If any of the information required in a statement of
23 organization is changed, the committee shall file an amendment when
24 the next campaign statement is required to be filed. An independent
25 committee or political committee whose name does not include the
26 name of the person or persons that sponsor the committee or with
27 whom the committee is affiliated as required by subsection (3)

1 shall file an amendment to the committee's statement of
2 organization not later than the date the next campaign statement is
3 required to be filed after ~~the effective date of the amendatory act~~
4 ~~that added this sentence.~~ **APRIL 1, 1995.**

5 (5) When filing a statement of organization, a committee,
6 other than an independent committee, a political committee, or a
7 political party committee, may indicate in a written statement
8 signed by the treasurer of the committee that the committee does
9 not expect for each election to receive an amount in excess of
10 \$1,000.00 or expend an amount in excess of \$1,000.00.

11 (6) When filing a statement of organization, an independent
12 committee, a political committee, or a political party committee
13 may indicate in a written statement signed by the treasurer of the
14 committee that the committee does not expect in a calendar year to
15 receive or expend an amount in excess of \$1,000.00.

16 (7) Upon the dissolution of a committee, the committee shall
17 file a statement indicating dissolution with the filing officials
18 with whom the committee's statement of organization was filed.
19 Dissolution of a committee shall be accomplished pursuant to rules
20 promulgated by the secretary of state under the administrative
21 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

22 (8) A candidate committee that files a written statement
23 ~~pursuant to~~ **UNDER** subsection (5) ~~shall~~ **IS** not ~~be~~ required to file a
24 dissolution statement ~~pursuant to~~ **UNDER** subsection (7) if the
25 committee failed to receive or expend an amount in excess of
26 \$1,000.00 and 1 of the following applies:

27 (a) The candidate was defeated in an election and has no

1 outstanding campaign debts or assets.

2 (b) The candidate vacates an elective office and has no
3 outstanding campaign debts or assets.

4 Sec. 32. (1) A committee, candidate, treasurer, or other
5 individual designated as responsible for the committee's record
6 keeping, record preparation, or report filing shall report a late
7 contribution by filing with the filing officer within 48 hours
8 after its receipt the full name, street address, occupation,
9 employer, and principal place of business of the contributor.

10 (2) Filing of a report of a late contribution under subsection
11 (1) may be by any written means of communication and need not
12 contain an original signature.

13 (3) A late contribution shall be reported on subsequent
14 campaign statements without regard to reports filed under
15 subsection (1). If a campaign statement has not been filed, a late
16 contribution may be reported, if practicable, in the campaign
17 statement and need not, therefore, be reported in a subsequent
18 campaign statement.

19 (4) A committee, candidate, treasurer, or other individual
20 designated as responsible for the committee's record keeping,
21 report preparation, or report filing who fails to report a late
22 contribution as required by subsection (1) shall pay a late filing
23 fee. ~~that~~ **A LATE FILING FEE ASSESSED UNDER THIS SUBSECTION**
24 **AGAINST A CANDIDATE COMMITTEE SHALL BE PAID BY THE CANDIDATE, AND**
25 **THE CANDIDATE SHALL NOT USE COMMITTEE FUNDS TO PAY THAT FEE. A LATE**
26 **FILING FEE UNDER THIS SUBSECTION** shall not exceed the lesser of the
27 following:

1 (a) The total amount of the contributions omitted from the
2 late contribution reports.

3 (b) \$2,000.00 determined as follows:

4 (i) Twenty-five dollars for each business day the report
5 remains unfiled.

6 (ii) An additional \$25.00 for each business day after the
7 first 3 business days the report remains unfiled.

8 (iii) An additional \$50.00 for each business day after the
9 first 10 business days the report remains unfiled.

10 (5) A committee, other than a candidate committee, is only
11 required to file a report of a late contribution for an election
12 during which the committee made expenditures for the purpose of
13 influencing the nomination or election of a candidate or for the
14 qualification, passage, or defeat of a ballot question after the
15 closing date of the last campaign statement required to be filed
16 before an election. This subsection is retroactive and takes effect
17 January 1, 2010.

18 (6) This state by appropriation or a county shall reimburse or
19 waive any late filing fee paid or assessed under subsection (4) or
20 (5) between January 1, 2010 and ~~the effective date of the~~
21 ~~amendatory act that added this subsection.~~ **JULY 3, 2012.** This
22 subsection only applies to committees that have filed all other
23 campaign statements required under this act in a timely manner.
24 This subsection does not apply to candidate committees.

25 (7) As used in this section, for contributions made before ~~the~~
26 ~~effective date of the amendatory act that added subsection (6),~~
27 **JULY 3, 2012,** "late contribution" means a contribution of \$200.00

1 or more received after the closing date of the last campaign
2 statement required to be filed before an election. For
3 contributions made on or after ~~the effective date of the amendatory~~
4 ~~act that added subsection (6),~~ **JULY 3, 2012**, late contribution
5 means, for a candidate committee, contributions from the same
6 contributor with a cumulative total of \$500.00 or more received
7 after the closing date of the last campaign statement required to
8 be filed before an election. For contributions made on or after ~~the~~
9 ~~effective date of the amendatory act that added subsection (6),~~
10 **JULY 3, 2012**, late contribution means, for a committee other than a
11 candidate committee, contributions from the same contributor with a
12 cumulative total of \$2,500.00 or more received after the closing
13 date of the last campaign statement required to be filed before an
14 election.

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

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

25 (b) A postelection campaign statement shall be filed not later
26 than the thirtieth day following the election. The closing date for
27 a campaign statement filed under this subdivision shall be the

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

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

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

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

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

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

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

26 (3) An independent committee or a political committee other
27 than a house political party caucus committee or senate political

1 party caucus committee required to file with the secretary of state
2 shall file campaign statements as required by this act according to
3 the following schedule:

4 (a) Not later than February 15 of each year with a closing
5 date of February 10 of that year.

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

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

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

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

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

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

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

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

27 (e) For the period beginning on the fourteenth day immediately

1 preceding a primary or special primary election and ending on the
2 day immediately following the primary or special primary election,
3 not later than 4 p.m. each business day with a closing date of the
4 immediately preceding day, only for a contribution received or
5 expenditure made that exceeds \$1,000.00 per day.

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

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

1 campaign statement that is required to be filed before the date of
2 the election for which the expenditure was made.

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

11 (7) A committee, candidate, treasurer, or other individual
12 designated as responsible for the committee's record keeping,
13 report preparation, or report filing who fails to file a statement
14 as required by this section shall pay a late filing fee. **A LATE**
15 **FILING FEE ASSESSED UNDER THIS SUBSECTION AGAINST A CANDIDATE**
16 **COMMITTEE SHALL BE PAID BY THE CANDIDATE, AND THE CANDIDATE SHALL**
17 **NOT USE COMMITTEE FUNDS TO PAY THAT FEE.** If the committee has
18 raised \$10,000.00 or less during the previous 2 years, the late
19 filing fee shall be \$25.00 for each business day the statement
20 remains unfiled, but not to exceed \$500.00. If the committee has
21 raised more than \$10,000.00 during the previous 2 years, the late
22 filing fee shall not exceed \$1,000.00, determined as follows:

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

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

27 (c) An additional \$50.00 for each business day after the first

1 10 business days the report remains unfiled.

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

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

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

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

27 (12) If a candidate committee's account has a balance of

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

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

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

1 court shall hear the action and determine the issues of fact and
2 law involved in accordance with rules of practice and procedure as
3 in other in rem proceedings.