



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 613 and 614 (Substitute S-2 as passed by the Senate)
Senate Bills 615 and 616 (as Passed by the Senate)
Sponsor: Senator Jeremy Moss (S.B. 613)
 Senator Sam Singh (S.B. 614)
 Senator Mark E. Huizenga (S.B. 615)
 Senator Ed McBroom (S.B. 616)
Committee: Oversight

Date Completed: 12-1-23

INTRODUCTION

The bills would require a public officer and a candidate for office (candidate) to file financial disclosure reports with the Department of State (DoS) in accordance with Proposal 22-1 (see **BACKGROUND**). They would prescribe a late filing fee of \$25, up to a maximum fine of \$1,000. The Secretary of State (SOS) would have to create forms and methods to submit a report and make such information publicly accessible. Additionally, the SOS would have to receive and handle complaints for alleged violations of the bills, and the bills would require the SOS to attempt to remedy a violation informally before commencing a hearing. A public official or candidate that knowingly filed an inaccurate or incomplete financial disclosure report could be ordered to pay a maximum civil fine of \$2,000.

Senate Bills 613 and 614 are tie-barred. Senate Bills 615 and 616 are tie barred to each other and to Senate Bills 613 and 614.

FISCAL IMPACT

The bills would have an indeterminate cost for the DoS associated with receiving the required financial disclosure statements and making them publicly available on its website. Additionally, the DoS would have to make available appropriate forms, instructions, and manuals regarding financial disclosure statements. Any additional programming or staffing costs for these items should be absorbable within annual departmental appropriations.

The bills also could require the DoS to issue declaratory rulings on discrepancies in financial disclosure statements and investigate and hold a hearing in certain cases of alleged violations of the Acts; however, the SOS could refuse to issue a declaratory ruling if the request were anonymous or if the SOS determined that the subject matter of the request was frivolous. There likely would be additional costs for any investigations and hearings that could be held but that cost is indeterminate and depends on how many cases actually proceed to a hearing. It is likely that additional appropriations could become necessary if these cases are more than a few.

Finally, the bills provide for a late filing fee of \$25 for each business day that a report was late up to a maximum fee of \$1,000. Additionally, anyone who knowingly files an incomplete or inaccurate report would be in violation of the Acts and ordered to pay a civil fine up to \$1,000. The proceeds from the fines would be deposited into the GF. The amount of potential revenue is indeterminate and depends on the number of fees and fines levied.

Proposed MCL 169.244a (S.B. 615)
MCL 169.244 (S.B. 616)

Legislative Analyst: Eleni Lionas
Fiscal Analyst: Joe Carrasco, Jr.; Michael Siracuse

CONTENT

Senate Bill 613 (S-2) would enact the "Public Officers Financial Disclosure Act" to do the following:

- Require public officers to annually file a financial disclosure report within the DoS and specify the report's required information.
- Specify the information a public officer filing a financial disclosure report could omit.
- Require a public officer to file certain information pertaining to the officer's spouse.
- Require the DoS to create a standard financial disclosure form within 30 days of the bill's effective date and, by March 15, 2024, make that form available on its website.
- Require the SOS to manage forms and instructions of the forms, including managing the filing procedures.
- Prescribe the procedure for the SOS to issue a declaratory ruling.
- Require the SOS to make publicly available an annual summary of the declaratory rulings and interpretative statements issued by it.
- Allow an individual to file a complaint of a violation of the proposed Act with the SOS and prescribe a process for resolving a complaint.
- Require the SOS to refer a complaint involving the SOS or the SOS's spouse to the Attorney General (AG).
- Prescribe a late filing fee of \$25 per business day after the first 10 business days that a report remained unfiled, up to a maximum fine of \$1,000.
- Specify that an individual who knowingly filed an incomplete or inaccurate report could be ordered to pay a civil fine of up to \$2,000.
- Require the SOS to deposit a civil fine in the General Fund (GF) and allow the SOS to bring an action in circuit court to recover the amount of a civil fine.
- Require a late filing fee or civil fine to be adjusted for inflation every four years using the Detroit Consumer Price Index (CPI).
- Require the SOS to preserve a report for 15 years after its filing.

Senate Bill 614 (S-2) would enact the "Candidate for Office Financial Disclosure Act" to do the following:

- Require a candidate for office to annually file a financial disclosure report within the DoS and specify the report's required information.
- Specify the information a candidate filing a financial disclosure report could omit.
- Require a candidate for office to file certain information pertaining to the candidate's spouse.
- Require the DoS to create a standard financial disclosure form within 30 days of the bills effective date and, by March 15, 2024, make that form available on its website.
- Require the SOS to manage forms and instructions of the forms including managing the filing procedures.
- Prescribe the procedure for the SOS to issue a declaratory ruling.
- Require the SOS to make publicly available an annual summary of the declaratory rulings and interpretative statements issued by it.
- Allow an individual to file a complaint of a violation of the proposed Act with the SOS and prescribe a process for resolving a complaint.
- Require the SOS to refer a complaint involving the SOS or the SOS's spouse to the AG.
- Prescribe a late filing fee of \$25 per business day after the first 10 business days that a report remained unfiled, up to a maximum fine of \$1,000.

- **Specify that an individual who knowingly filed an incomplete or inaccurate report could be ordered to pay a civil fine of up to \$2,000.**
- **Require the SOS to deposit a civil fine in the GF and allow the SOS to bring an action in circuit court to recover the amount of a civil fine.**
- **Require a late filing fee or civil fine to be adjusted for inflation every four years using the Detroit CPI.**
- **Require the SOS to preserve a report for 15 years after its filing.**

Senate Bill 615 would amend the Michigan Campaign Finance Act to allow a candidate committee to pay a late filing fee under the "Public Officers Financial Disclosure Act" or the "Candidate for Office Financial Disclosure Act".

Senate Bill 616 would amend the Michigan Campaign Finance Act to exempt an expenditure allowed by Senate Bill 615 from a prohibition against a candidate committee making expenditures for anything but the furthering of a candidate's nomination or election.

Senate Bill 613 and Senate Bill 614 are described in greater detail below.

Senate Bills 613 (S-2) & 614 (S-2)

Timeline of Annual Financial Disclosure Reports

Senate Bill 613 (S-2) and Senate Bill 614 (S-2) would require a public officer and a candidate, respectively, to file an annual financial disclosure report with the DoS.

"Public officer" would mean all the following:

- A State representative.
- A State senator.
- The Attorney General.
- The Governor.
- The Lieutenant Governor.
- The SOS.

"Candidate for office" would mean a candidate for any of those offices described above who is subject to the Michigan Campaign Finance Act and whose candidate committee received or spent more than \$1,000 during the election cycle.

"Report" would mean the financial disclosure report required under Section 10 of Article IV of the State Constitution of 1963 (see **BACKGROUND**).

A public officer would have to file the report by April 15, 2024, and by May 15, of each following year. This provision would not apply to an individual who was a public officer only on the first day of the calendar year.

A candidate would have to file the report by May 15, 2024, and by May 15, each following year, or if the candidate filed a statement of organization for that candidate's committee after May 15, to be nominated by a political party's nominating convention, the report would have to be filed within 30 days after that candidate filed the statement of organization for the candidate committee.

If a public officer or candidate received notice pertaining to an error or omission on the report from the SOS, the public officer or candidate would have to file corrections to the errors or omissions or file the report, as applicable within nine business days after receiving the notice.

Annual Financial Disclosure Report for a Public Officer

The financial disclosure report for a public officer would have to include a statement of all the following if applicable:

- The full name, mailing address, telephone number, and email address of the public officer.
- The name and address of the public officer's employer and the positions held during the reporting period, if the public officer received \$1,000 or more in annual income from each position.
- The name and occupation of the public officer's spouse, and the name of the spouse's employer.
- Whether the public officer's spouse was registered as a lobbyist or lobbyist agent during the reporting period.
- A list of all positions currently held as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any organization, corporation, firm, partnership, or other business enterprise, nonprofit organization, labor organization, or educational or other institution other than the State.
- The source of earned income received during the reporting period by the public officer that was \$1,000 or more.
- Except as otherwise specified, a list of each asset, excluding a business asset, held for investment or production of income with a fair market value of \$1,000 or more during the reporting period and any sources of unearned income that exceeded \$200 during the reporting period.
- A list of all liabilities that exceeded \$10,000 owed by the public officer to a creditor at any time during the reporting period.
- A list of any real property in which the public officer held an ownership or other financial interest only if that real property had a fair market value of \$1,000.00 or more during the reporting period; however, a public officer filing a report could exclude the street number of a parcel of real property.
- The date, identity of parties to, and general terms of any agreements or arrangements with respect to future employment, a leave of absence while serving as a public officer, continuation or deferral of payments by a former or current employer other than the State, or continuing participation in an employee welfare or benefit plan maintained by a former employer.
- A list of all gifts received and reported by a lobbyist or lobbyist agent under State law.
- A list of all travel payments received and reported by a lobbyist or lobbyist agent under State law.
- A list of each payment made by a lobbyist or lobbyist agent to a charity in lieu of honoraria.

(If the public officer held any position described above, the officer would have to include the name of the organization. Under this provision, positions held in any religious, social, fraternal, or political entity, or positions that were solely of an honorary nature, would be excluded. The fair market value for the purpose of listing each asset, excluding a business asset, held for investment or production of income described above would have to be adjusted for inflation every four years using the Detroit CPI, and rounded up to the nearest \$1,000.)

Additionally, except as otherwise specified, the report would have to include a list of any stocks, bonds, or other forms of securities held by the public officer or held jointly with the public officer's spouse during the reporting period, if the security had a total aggregate fair market value of \$1,000 or more. The fair market value for the purpose of listing stocks, bonds, or other forms of securities would have to be adjusted for inflation every four years using the Detroit CPI and rounded up to the nearest \$1,000. A public officer would not be required to disclose a stock in a widely held investment fund, including, a mutual fund, regulated investment company, pension or deferred compensation plan, or other investment fund, if the following applied:

- Either the fund was publicly traded or the assets of the fund were widely diversified.
- The public officer or the public officer's spouse did not exercise control over or have the ability to exercise control over the financial interests held by the fund.

The Public Officers Financial Disclosure Act would specify that a public officer would not be required to disclose the value of any real property or property disclosed as described above.

If a public officer required to file a held a beneficial interest in a blind trust, the public officer would not be required to include the interests or assets of the blind trust in the report; however, the public officer would have to indicate in the public officer's report that the public officer held a beneficial interest in a blind trust. A beneficial interest would include the interest in a trust of a qualified trust beneficiary or trust beneficiary as those terms are defined under Section 7103 of the Estates and Protected Individual's Code.

"Blind trust" would mean a qualified blind trust or qualified diversified trust as those terms are defined in 5 CFR 2634.403. (Generally, under 5 CFR 2634.403, "qualified blind trust" and "qualified diversified trust" mean a trust in which the interested party has a beneficial interest, and in which is certified; has a portfolio that meets certain conditions; follows the model trust document; and has an independent trustee.

(Under Section 7103 of the Code, "qualified trust beneficiary" means a trust beneficiary to whom at least one the following apply on the date the trust beneficiary's qualification is determined: a) the trust beneficiary is a distributee or permissible distributee of trust income or principal; b) the trust beneficiary would be a distributee or permissible distributee of trust income or principal if the interests of the distributees under the trust described above terminated on that date without causing the trust to terminate; or c) the trust beneficiary would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date. "Trust beneficiary" means a person to whom at least one of the following apply: a) the person has a present or future beneficial interest in a trust, vested or contingent; b) the person holds a power of appointment over trust property in a capacity other than that of trustee or trust director.)

The report would have to include the following certification:

"I certify that the statements I have made on this financial disclosure form are true, complete, and correct to the best of my knowledge and belief, and that I have not moved assets during the reporting period for the purpose of avoiding disclosure under the Public Officers Financial Disclosure Act".

Annual Financial Disclosure Report for a Candidate

The financial disclosure report for a candidate would have to include a statement of all the following:

- The full name, mailing address, telephone number, and email address of the candidate.
- The name and address of the candidate's employer and the positions held during the reporting period, if the candidate received \$1,000 or more in annual income from each position.
- The name and occupation of the candidate's spouse and the name of the spouse's employer or employers.
- Whether the public officer's spouse was registered as a lobbyist or lobbyist agent during the reporting period.
- A list of all positions currently held as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any organization, corporation, firm, partnership, or other business enterprise, nonprofit organization, labor organization, or educational or other institution other than the State.

- The source of earned income received during the reporting period by the public officer that was \$1,000 or more.
- Except as otherwise specified, a list of each asset, excluding a business asset, held for investment or production of income with a fair market value of \$1,000 or more during the reporting period and any sources of unearned income that exceeded \$200 during the reporting period.
- A list of all liabilities that exceeded \$10,000 owed by the candidate to a creditor at any time during the reporting period.
- A list of any real property in which the candidate held an ownership or other financial interest only if that real property had a fair market value of \$1,000 or more during the reporting period; however, a candidate filing a report could exclude the street number of a parcel of real property.
- The date, identity of parties to, and general terms of any agreements or arrangements with respect to future employment, a leave of absence while serving as a candidate, continuation or deferral of payments by a former or current employer other than the State, or continuing participation in an employee welfare or benefit plan maintained by a former employer.

(If the candidate held any position described above, the candidate would have to include the name of the organization. Under this provision, positions held in any religious, social, fraternal, or political entity, or positions that were solely of an honorary nature, would be excluded. The fair market value for the purpose of listing each asset, excluding a business asset, held for investment or production of income described above would have to be adjusted for inflation every four years using the Detroit CPI, and rounded up to the nearest \$1,000.)

Additionally, except as otherwise specified, the report would have to include a list of any stocks, bonds, or other forms of securities held by the candidate or held jointly with the candidate's spouse during the reporting period, if the security had a total aggregate fair market value of \$1,000 or more. The fair market value for the purpose of listing stocks, bonds, or other forms of securities would have to be adjusted for inflation every four years using the Detroit CPI and rounded up to the nearest \$1,000. A candidate would not be required to disclose a stock in a widely held investment fund, including, a mutual fund, regulated investment company, pension or deferred compensation plan, or other investment fund, if the following applied:

- Either the fund was publicly traded or the assets of the fund were widely diversified.
- The candidate or candidate's spouse did not exercise control over or have the ability to exercise control over the financial interests held by the fund.

The Candidate for Office Financial Disclosure Act would specify that a candidate would not be required to disclose the value of any real property or property disclosed as described above.

The Act would specify that there would be an ongoing duty to report any agreement or arrangement entered into by a public official after the filing deadline. Additionally, within ten days of entering arrangement or agreement with respect to future employment that the public officer was going to begin within one year of the end of the officer's term a public officer who was not reelected or seeking reelection would have to report such information to the DoS.

The report would have to include the following certification:

"I certify that the statements I have made on this financial disclosure form are true, complete, and correct to the best of my knowledge and belief, and that I have not moved assets during the reporting period for the purpose of avoiding disclosure under the Candidate for Financial Disclosure Act".

Financial Disclosure Report Allowed Omissions

The Act would allow a public officer or candidate filing a financial disclosure report to omit the following:

- Information an individual was required to report under the Michigan Campaign Finance Act.
- An item that concerned a spouse who was living separate and apart from the public officer or candidate with the intention of terminating the marriage or maintaining a legal separation.
- An item that concerned income of the public officer or candidate arising from dissolution of the public officer's or candidate's marriage or a permanent legal separation from the public officer's or candidate's spouse.

Additionally, the public officer or candidate could omit an item otherwise required to be reported as stocks, bonds, other forms of securities, or real property in which the public officer or candidate held interest if all the following applied:

- The item represented the exclusive financial interest and responsibility of the public officer's or candidate's spouse about which the public officer or candidate did not have control.
- The item was not in any way derived from the income, assets, or activities of the public officer or candidate.
- The public officer or candidate did not derive, or expect to derive, financial benefit from the item.

Standard Financial Disclosure Form

Within 30 days after the Acts' effective dates, the DoS would have to create a standard financial disclosure form that incorporated the requirements of the report's contents for use by a public officer or candidate to file the financial disclosure report. The DoS would have to make the form easily accessible on its website by March 15, 2024.

SOS Duties

Under the Act, the SOS would have to do all the following:

- Make available appropriate forms, instructions, and manuals through the SOS's offices.
- Create and operate an electronic, internet-accessible system to receive all statements and reports to be filed with the SOS.
- Create all forms, instructions, and manuals required under the Acts.
- Issue declaratory rulings to implement the Acts under the Administrative Procedures Act.
- As soon as practicable, but within five business days after a report was received, make the report or all of the contents of the report available without charge to the public on a separate internet webpage or its website homepage.
- Within nine business days after the deadline for filing a report, notify, by registered mail or email, an individual of any error or omission in the individual's report or that the individual failed to file the required report.

Additionally, on receiving a written request and the required filing, the SOS would have to waive payment of a late filing fee if the request for the waiver were based on good cause and accompanied by adequate documentation. One or more of the following reasons would constitute good cause for a late filing fee waiver:

- The incapacitating physical illness, hospitalization, accident involvement, death, or incapacitation for medical reasons of a public officer, candidate, or an individual whose participation was essential to the preparation of the report.
- Other unique, unintentional factors beyond the control of the public officer or candidate that were not the result of a negligent act or nonaction so that a reasonably prudent person would excuse the filing on a temporary basis.

The factors described above would include the loss or unavailability of records because of a fire, flood, theft, or similar reason and difficulties related to the transmission of the filing to the SOS, such as exceptionally bad weather.

Declaratory Ruling

Under the proposed Acts, the SOS would have to issue a declaratory ruling only if the person requesting the ruling had provided a reasonably complete statement of facts necessary for the ruling or if the person requesting the ruling had, with the permission of the SOS, supplied supplemental facts necessary for the ruling.

Within two business days after receiving a request for a declaratory ruling, the SOS would have to make the request available without charge to the public on a separate webpage or its website. An interested person could submit written comments regarding the request to the SOS within 10 business days after the date the request was made available to the public.

Within 45 business days after receiving a declaratory ruling request, the SOS would have to make a proposed response available without charge to the public on a separate webpage or its website. An interested person could submit written comments regarding the proposed response to the SOS within five business days after the date the proposal was made available to the public.

Unless otherwise provided, the SOS would have to issue a declaratory ruling within 60 business days after receiving a request for a ruling. The SOS could refuse to issue a declaratory ruling or interpretive statement if the request were anonymous, the SOS determined that the subject matter of the request was frivolous on its face, or the request was indefinite or lacked specificity.

If the SOS refused to issue a declaratory ruling, the SOS would have to notify the person who made the request of the reasons for the refusal and issue an interpretative statement that provided an informational response to the question presented within the 60-day period. A declaratory ruling or interpretative statement could not state a general rule of law, other than that which was stated in the respective proposed Act, or under judicial order.

Under extenuating circumstances, the SOS could issue a notice extending the period during which the SOS would have to respond to a request for a declaratory ruling for a maximum of 30 business days. The Acts would specify that the SOS could not issue more than one notice of extension for a particular request. A person who requested a declaratory ruling could waive, in writing, the time limitations.

Additionally, the SOS would have to publicly make available an annual summary of the declaratory rulings and interpretative statements issued by the SOS.

Filing a Complaint

The proposed Acts would allow a person to file a complaint of a violation of them with the SOS. Within five business days after a complaint that met the requirements described below was filed, the SOS would have to mail notice to the person against whom the complaint was filed. The notice would have to include a copy of the complaint.

Within 15 business days after the notice was mailed, the person against whom the complaint was filed could submit a response to the SOS. The SOS could extend the period for submitting a response by an additional 15 business days for good cause. Additionally, the SOS would have to mail a copy of a response received to the complainant. Within 10 business days after the response was mailed, the complainant could submit a rebuttal statement to the SOS. The SOS could extend the period for submitting a rebuttal statement an additional 10 business days for good cause. The SOS would have to provide a copy of the rebuttal statement to the person against whom the complaint was filed.

If on review of the complaint, the SOS determined that the complaint was frivolous, illegible, indefinite, unsigned, or did not identify an alleged violator or violation, or did not contain a verification statement, the SOS could summarily dismiss the complaint without prejudice. If a complaint were summarily dismissed, the complainant would have to be notified in writing as to the reason the complaint was dismissed. The SOS could consolidate similar complaints.

A filed complaint would have to satisfy all the following requirements:

- Be signed by the complainant.
- State the name, address, and telephone number of the complainant.
- Include the complainant's certification that, to the best of the complainant's knowledge, information, and belief, formed after a reasonable inquiry under the circumstances, each factual contention of the complaint was supported by evidence.

However, if, after a reasonable inquiry under the circumstances, the complainant were unable to certify that certain factual contentions were supported by evidence, the complainant could certify that, to the best of the complainant's knowledge, information, or belief, there were grounds to conclude that those specifically identified factual contentions were likely to be supported by evidence after a reasonable opportunity for further inquiry.

A person could not file a complaint with a false certificate that included the complainant's certification that, to the best of the complainant's knowledge, information, and belief, formed after a reasonable inquiry under the circumstances, each factual contention of the complaint was supported by evidence. A person could file a complaint for a violation of the proposed Acts alleging that another person had filed a complaint with a false certificate that included the complainant's certification that, to the best of the complainant's knowledge, information, and belief, formed after a reasonable inquiry under the circumstances, each factual contention of the complaint was supported by evidence.

The bills would require the SOS to investigate allegations brought under the proposed Acts. If an allegation involved the SOS, or the SOS's spouse, the SOS would have to refer the matter to the Attorney General to determine whether a violation had occurred.

Within 45 business days after receiving a rebuttal statement for an alleged violation or, if no response or rebuttal were received, 45 business days after receiving a complaint, the SOS would have to post on the SOS's website whether there were reason to believe that a violation of the proposed Acts occurred. If the SOS determined there could be reason to believe that a violation occurred or determined to terminate its proceedings, the SOS would have to post on the SOS's website any complaint, response, or rebuttal statement received regarding that violation or alleged violation and any correspondence that was dispositive of that violation or alleged violation between the SOS and the complainant or the person against whom the complaint was filed within 30 days after that determination.

Hearings

If the SOS determined that there could be reason to believe that a violation occurred, the SOS would have to attempt to correct the violation or prevent a further violation by using

informal methods such as a conference, conciliation, or persuasion, and could enter into a conciliation agreement with the person involved. Unless violated, a conciliation agreement would be a complete bar to any further civil action with respect to matters covered in the conciliation agreement. Within 30 days after a conciliation agreement was signed, the SOS would have to post that agreement on the DoS's website. If, after 90 business days, the SOS were unable to correct or prevent further violation by informal methods, the SOS could commence a hearing for enforcement of the proposed Acts.

The hearing would have to be conducted in accordance with Chapter 4 (Procedures in Contested Cases) of the Administrative Procedures Act. A final decision or order issued by the SOS would be subject to judicial review as provided under Chapter 6 (Judicial Review) of the Administrative Procedures Act.

The SOS would have to deposit a civil fine imposed under the proposed Acts in the General Fund, and the SOS could bring an action in circuit court to recover the amount of a civil fine.

The proposed Acts would require the SOS to review a report or statement and allow the SOS to investigate an apparent violation of the proposed Acts. If the SOS determined that there could be reason to believe a violation occurred and the procedures prescribed to remedy the violation had been complied with, the SOS could commence a hearing to determine whether a violation occurred.

The proposed Acts would specify that there would be no private right of action, either in law or in equity, under them. The remedies provided would be the exclusive means by which the proposed Acts could be enforced and by which any harm resulting from a violation could be redressed.

Additionally, the SOS would have to preserve a report filed under the proposed Acts for 15 years after the date the report was filed. If the SOS or Attorney General determined that a violation occurred, the SOS would have to preserve all complaints, orders, decisions, or other documents related to that violation for 15 years after the date of the determination or the date the violation was corrected, whichever was later.

Reports filed under the proposed Acts could be reproduced under the Records Reproduction Act. After the required preservation period, the reports, or the reproductions of the reports, could be disposed of in the manner prescribed in the Management and Budget Act and Section 11 of the Michigan History Center Act.

Fines

An individual who failed to file a financial disclosure report would have to pay a late filing fee of \$25 for each business day after the first 10 business days that the report remained unfiled, up to a maximum fine of \$1,000. A late filing fee would have to be deposited into the General Fund.

An individual who knowingly filed an incomplete or inaccurate report could be ordered to pay a civil fine of not more than \$2,000.

A late filing fee or civil fine that remained unpaid for more than 180 days would have to be referred to the DoT for collections. The amount of a fee or fine would have to be adjusted for inflation every four years using the Detroit CPI.

Definitions

"Earned income" would mean salaries, wages, tips, bonuses, commissions, or other

compensation or earnings from employment earned during the reporting period. "Reporting period" would mean the preceding calendar year.

"Unearned income" would mean income that is not earned from employment, including, but not limited to, financial prize, unemployment benefits, annuities, stock dividends, deferred compensation, pension, profit sharing, or retirement income. The term would not include inheritance money or a familial gift.

"Spouse" would mean an individual who is lawfully married to a public officer as described under Federal regulations.

"Liabilities" would mean what a person owes to another person, including, but not limited to, mortgages or other debts. For purposes of the proposed Acts, the term would not include a revolving debt, an unsecured debt that was from a financial institution or the Federal government, or a debt owed by a business entity.

"Gift" would mean a payment, subscription, advance, forbearance, rendering, or deposit of money, services, or anything of value, unless consideration of equal or greater value is given in exchange.

"Lobbyist" would mean any of the following:

- A person whose expenditures for lobbying are more than \$1,000 in value in any 12-month period.
- A person whose expenditures for lobbying are more than \$250 in value in any 12-month period if the amount is expended on lobbying a single public official.
- For the provisions described above groups of 25 or more people must not have their personal expenditures for food, travel, and beverage included, providing those expenditures are not reimbursed by a lobbyist or lobbyist agent.
- The State or a political subdivision which contracts for a lobbyist agent

"Lobbyist agent" would mean a person who receives compensation or reimbursement of actual expenses, or both, in a combined amount more than \$250 in any 12-month period for lobbying.

"Honorarium" would mean a payment of money to a person holding elective office as consideration for an appearance, speech, an article, or any activity related to or associated with the performance of duties as an elected official. The term would not include the following:

- Reimbursement for the cost of transportation, accommodations, or meals for the person.
- Wages, salaries, other employee compensation, and expenses authorized to be paid by the State or a political subdivision of the State to the person holding elective office.
- An award.

BRIEF RATIONALE

The passage of Proposal 22-1 enshrined in the Constitution the requirement that members of the Legislature, the Governor, the SOS, and the AG file annual public disclosure reports. According to testimony before the Senate Committee on Oversight, this proposal did not go far enough and should include requirements of candidates running for office so voters can be more informed electors. It has been suggested that financial disclosure legislation be enacted to govern the requirements of Proposal 22-1 and further increase transparency.

BACKGROUND

In March 2022, the Board of State Canvassers approved the form and summary of an initiative

petition sponsored by a group called Voters for Transparency and Term Limits. Generally, the initiative petition sought to amend the Michigan Constitution to require members of the Legislature, the Governor, the SOS, and the Attorney General to file annual public financial disclosure reports and modify Michigan's term limits requirement to allow an individual to serve a total of 12 years in any combination between the Senate and the House. The organization would have had to collect over 425,000 signatures by July 11, 2022, to have the initiation petition placed on the November ballot; however, that threshold was not reached. Instead, the House and Senate adopted House Joint Resolution R during the 2021-2022 Legislative Session, which placed the initiative on the ballot as Proposal 22-1. The Proposal passed with 66.45% of the vote during the November general election.

SAS\S2324\sb613sb

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.