

SENATE BILL NO. 1196

December 05, 2024, Introduced by Senators MOSS, MCBROOM and SINGH and referred to the Committee on Oversight.

A bill to amend 2023 PA 281, entitled "Public officers financial disclosure act," by amending sections 3, 5, 7, 11, 13, and 15 (MCL 15.703, 15.705, 15.707, 15.711, 15.713, and 15.715).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. As used in this act:

2 (a) "Blind trust" means a qualified blind trust or qualified
3 diversified trust as those terms are defined in 5 CFR 2634.403.

4 (b) "Consumer Price Index" means the most comprehensive index
5 of consumer prices available for the Detroit-Warren-Dearborn area

1 **from the Bureau of Labor Statistics of the United States Department**
 2 **of Labor.**

3 (c) ~~(b)~~—"Department" means the department of state.

4 (d) ~~(e)~~—"Earned income" means salaries, wages, tips, bonuses,
 5 commissions, or other compensation or earnings from employment
 6 earned during the reporting period.

7 (e) ~~(d)~~—"Form" means the financial disclosure form created by
 8 the department in accordance with section 11.

9 (f) ~~(e)~~—"Gift" means that term as defined in section ~~7-4~~ of
 10 ~~the Michigan campaign finance act, 1976 PA 388, MCL 169.207.~~ **1978 PA**
 11 **472, MCL 4.414.**

12 (g) ~~(f)~~—"Honorarium" means that term as defined in section 7
 13 of the Michigan campaign finance act, 1976 PA 388, MCL 169.207.

14 (h) ~~(g)~~—"Liabilities" means what a person owes to another
 15 person, including, but not limited to, mortgages or other debts.
 16 For purposes of this act, a debt does not include a revolving debt,
 17 an unsecured debt that is from a financial institution or the
 18 federal government, or a debt owed by a business entity.

19 (i) ~~(h)~~—"Lobbyist" means that term as defined in section 5 of
 20 1978 PA 472, MCL 4.415.

21 (j) ~~(i)~~—"Lobbyist agent" means that term as defined in section
 22 5 of 1978 PA 472, MCL 4.415.

23 (k) ~~(j)~~—"Spouse" means an individual who is lawfully married
 24 to a public officer as described under 26 CFR 30.7701-18.

25 (l) ~~(k)~~—"Public officer" means all of the following:

26 (i) A state representative.

27 (ii) A state senator.

28 (iii) The attorney general.

29 (iv) The governor.

1 (v) The lieutenant governor.

2 (vi) The secretary of state.

3 (m) ~~(l)~~—"Report" means the financial disclosure report required
4 under section 10 of article IV of the state constitution of 1963.

5 (n) ~~(m)~~—"Reporting period" means the preceding calendar year.

6 (o) ~~(n)~~—"Unearned income" means income that is not earned from
7 employment, including, but not limited to, financial prize,
8 unemployment benefits, annuities, stock dividends, deferred
9 compensation, pension, profit sharing, or retirement income.
10 Unearned income does not include inheritance money or a familial
11 gift.

12 Sec. 5. (1) A public officer shall file an annual financial
13 disclosure report with the department.

14 (2) The report required under this section must first be filed
15 by April 15, 2024, and by May 15 of each year thereafter. This
16 subsection does not apply to an individual who was a public officer
17 only on the first day of the calendar year.

18 (3) If a public officer who is required to file a report under
19 this act receives notice from the secretary of state under section
20 ~~13(1)(g),~~ **13(1)(h)**, the public officer shall, ~~within~~ **not more than**
21 9 business days after receiving the notice, file corrections to the
22 errors or omissions or file the report, as applicable.

23 Sec. 7. (1) A report required under section 5 must include a
24 complete statement of all of the following:

25 (a) The full name, mailing address, telephone number, and
26 email address of the public officer.

27 (b) The name and address of the public officer's employer **or**
28 **employers** and the positions held during the reporting period, if
29 the public officer receives \$1,000.00 or more in annual income from

1 each position.

2 (c) The name of the spouse of the public officer, **and, if the**
3 **spouse receives \$1,000.00 or more in annual income**, the occupation
4 of the public officer's spouse, and the name of the employer or
5 employers of the public officer's spouse.-

6 (d) Whether the public officer's spouse was registered as a
7 lobbyist or lobbyist agent under 1978 PA 472, MCL 4.411 to 4.431,
8 during the reporting period.

9 (e) A list of all positions currently held as an officer,
10 director, trustee, partner, proprietor, representative, employee,
11 or consultant of any organization, corporation, firm, partnership,
12 or other business enterprise, nonprofit organization, labor
13 organization, or educational or other institution other than this
14 state. If this subdivision applies, the public officer shall
15 include the name of the organization. For purposes of this
16 subdivision, positions held in any religious, social, fraternal, or
17 political entity, or positions that are solely of an honorary
18 nature, are excluded.

19 (f) The source of earned income received during the reporting
20 period by the public officer. For purposes of this subdivision, the
21 public officer must report each source of income received during
22 the reporting period that is \$1,000.00 or more.

23 (g) Except as otherwise provided in this subdivision, a list
24 of each asset, excluding a business asset, held for investment or
25 production of income with a fair market value of \$1,000.00 or more
26 during the reporting period and any sources of unearned income that
27 exceed \$200.00 during the reporting period, **including the origin**
28 **and address of the sources of unearned income**. The fair market
29 value for the purpose of listing each asset, excluding a business

1 asset, held for investment or production of income under this
2 subdivision must be adjusted for inflation every 4 years using the
3 ~~Detroit~~ Consumer Price Index, and rounded up to the nearest
4 \$1,000.00.

5 (h) A list of all liabilities that exceed \$10,000.00 owed by
6 the public officer to a creditor at any time during the reporting
7 period.

8 (i) Except as otherwise provided in this subdivision, a list
9 of any stocks, bonds, or other forms of securities held by the
10 public officer or held jointly with the public officer's spouse
11 during the reporting period, **including the origin and address of**
12 **the securities**, if the security has a total aggregate fair market
13 value of \$1,000.00 or more. The fair market value for the purpose
14 of listing stocks, bonds, or other forms of securities under this
15 subdivision must be adjusted for inflation every 4 years using the
16 ~~Detroit~~ Consumer Price Index, and rounded up to the nearest
17 \$1,000.00. For purposes of this act, a public officer is not
18 required to disclose a stock in a widely held investment fund,
19 including, but not limited to, a mutual fund, regulated investment
20 company, pension or deferred compensation plan, or other investment
21 fund, if both of the following apply:

22 (i) Either the fund is publicly traded or the assets of the
23 fund are widely diversified.

24 (ii) The public officer or the public officer's spouse does not
25 exercise control over or have the ability to exercise control over
26 the financial interests held by the fund.

27 (j) A list of any real property in which the public officer
28 holds an ownership or other financial interest. For purposes of
29 this subdivision, the public officer is required to include a real

1 property in the report only if that real property has a fair market
2 value of \$1,000.00 or more during the reporting period. A public
3 officer filing a report may exclude the street number of a parcel
4 of real property under this subdivision.

5 (k) The date, identity of parties to, and general terms of any
6 agreements or arrangements with respect to future employment, a
7 leave of absence while serving as a public officer, continuation or
8 deferral of payments by a former or current employer other than
9 this state, or continuing participation in an employee welfare or
10 benefit plan maintained by a former employer. As provided in
11 section 8, there is an ongoing duty to report any agreement or
12 arrangement entered into by a public officer after the filing
13 deadline described in section 5(2).

14 (l) A list of all gifts received and **required to be** reported by
15 a lobbyist or lobbyist agent under state law, **including the name of**
16 **the lobbyist or lobbyist agent that provided the gift.**

17 (m) A list of all travel payments received and **required to be**
18 reported by a lobbyist or lobbyist agent under state law, **including**
19 **the name of the lobbyist or lobbyist agent that provided the travel**
20 **payment.**

21 (n) A list of each payment made by a lobbyist or lobbyist
22 agent to a charity in lieu of honoraria, **including the name of the**
23 **lobbyist or lobbyist agent that made the payment.**

24 (o) If applicable, a statement indicating that the public
25 officer or the public officer's spouse is a registered vendor with
26 this state, has a majority interest in a company that is a
27 registered vendor with this state, or is employed by a company that
28 is a registered vendor with this state. If the public officer or
29 the public officer's spouse is a registered vendor with this state

1 or has a majority interest in a company that is a registered vendor
2 with this state, the public officer shall include the name of the
3 company and a description of all contracts entered into with this
4 state by the public officer, public officer's spouse, or company in
5 which the public officer or public officer's spouse has a majority
6 interest during the reporting period. If the public officer or
7 public officer's spouse is employed by a company that is a
8 registered vendor with this state, the public officer shall include
9 the name of the company and a description of all contracts entered
10 into with this state that the public officer or the public
11 officer's spouse worked on directly during the reporting period.

12 (2) A public officer is not required to disclose the value of
13 any real property or property disclosed under subsection (1).

14 (3) If a public officer required to file a report under this
15 section holds a beneficial interest in a blind trust, the public
16 officer is not required to include the interests or assets of the
17 blind trust in the report. However, the public officer must
18 indicate in the public officer's report that the public officer
19 holds a beneficial interest in a blind trust. For purposes of this
20 subsection, beneficial includes, but is not limited to, the
21 interest in a trust of a qualified trust beneficiary or trust
22 beneficiary as those terms are defined under section 7103 of the
23 estates and protected individuals code, 1998 PA 386, MCL 700.7103.

24 (4) A report required under section 5 must include the
25 following certification: "I certify that the statements I have made
26 on this financial disclosure form are true, complete, and correct
27 to the best of my knowledge and belief, and that I have not moved
28 assets during the reporting period for the purpose of avoiding
29 disclosure under the public officers financial disclosure act".

1 Sec. 11. (1) ~~Within~~ **Not more than** 30 days after ~~the effective~~
2 ~~date of this act,~~ **February 13, 2024**, the department shall create a
3 standard financial disclosure form that incorporates the
4 requirements of section 7 for use by a public officer to file the
5 financial disclosure report required under this act.

6 (2) The department shall, ~~no~~ **not** later than March 15, ~~2024,~~
7 **2025**, make the **most current version of the** form created under this
8 section easily accessible on its website.

9 Sec. 13. (1) The secretary of state shall do all of the
10 following:

11 (a) Make available through the secretary of state's offices
12 appropriate forms, instructions, and manuals required by this act.

13 (b) Create and operate an electronic, internet-accessible
14 system to receive ~~all~~ statements and reports **that are** required by
15 this act to be filed with the secretary of state.

16 (c) **Accept statements and reports required by this act to be**
17 **filed with the secretary of state that are submitted via email as**
18 **an acceptable alternative to the electronic filing system created**
19 **under subdivision (b). This subdivision retroactively applies to**
20 **statements and reports submitted by email for the reporting period**
21 **of January 1, 2023 to December 31, 2023.**

22 (d) ~~(e)~~ Create ~~all~~ forms, instructions, and manuals required
23 under this act.

24 (e) ~~(d)~~ Issue declaratory rulings to implement this act under
25 the administrative procedures act of 1969, 1969 PA 306, MCL 24.201
26 to 24.328.

27 (f) ~~(e)~~ On receiving a written request and the required
28 filing, waive payment of a late filing fee if the request for the
29 waiver is based on good cause and accompanied by adequate

1 documentation. One or more of the following reasons constitute good
2 cause for a late filing fee waiver:

3 (i) The incapacitating physical illness, hospitalization,
4 accident involvement, death, or incapacitation for medical reasons
5 of a public officer or an individual whose participation is
6 essential to the preparation of the report.

7 (ii) Other unique, unintentional factors beyond the control of
8 the public officer that are not the result of a negligent act or
9 nonaction so that a reasonably prudent person would excuse the
10 filing on a temporary basis. These factors include the loss or
11 unavailability of records because of a fire, flood, theft, or
12 similar reason and difficulties related to the transmission of the
13 filing to the secretary of state, such as exceptionally bad
14 weather.

15 (g) ~~(f)~~—As soon as practicable, but not later than 5 business
16 days after a report required to be filed under this act is
17 received, make the report or all of the contents of the report
18 available without charge to the public on a separate internet
19 webpage or its website homepage.

20 (h) ~~(g)~~ **Within Not more than** 9 business days after the
21 deadline for filing a report under this act, notify, by registered
22 mail or email, an individual of any error or omission in the
23 individual's report or that the individual failed to file the
24 required report.

25 (2) The secretary of state shall issue a declaratory ruling
26 under this section only if the person requesting the ruling has
27 provided a reasonably complete statement of facts necessary for the
28 ruling or if the person requesting the ruling has, with the
29 permission of the secretary of state, supplied supplemental facts

1 necessary for the ruling. ~~Within~~ **Not more than** 2 business days
2 after receiving a request for a declaratory ruling, the secretary
3 of state shall make the request available in the manner provided
4 for under subsection (1) (f). An interested person may submit
5 written comments regarding the request to the secretary of state
6 ~~within~~ **not more than** 10 business days after the date the request is
7 made available to the public. ~~Within~~ **Not more than** 45 business days
8 after receiving a declaratory ruling request, the secretary of
9 state shall make a proposed response available in the manner
10 provided for under subsection (1) (f). An interested person may
11 submit written comments regarding the proposed response to the
12 secretary of state ~~within~~ **not more than** 5 business days after the
13 date the proposal is made available to the public. Except as
14 otherwise provided in this section, the secretary of state shall
15 issue a declaratory ruling ~~within~~ **not more than** 60 business days
16 after receiving a request for a declaratory ruling. The secretary
17 of state may refuse to issue a declaratory ruling or an
18 interpretive statement under this act if the request is anonymous,
19 the secretary of state determines that the subject matter of the
20 request is frivolous on its face, or the request is indefinite or
21 lacks specificity. If the secretary of state refuses to issue a
22 declaratory ruling, the secretary of state shall notify the person
23 making the request of the reasons for the refusal and issue an
24 interpretive statement providing an informational response to the
25 question presented within the 60-day period. A declaratory ruling
26 or interpretive statement issued under this section must not state
27 a general rule of law, other than that which is stated in this act,
28 or under judicial order.

29 (3) Under extenuating circumstances, the secretary of state

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

7 (4) The secretary of state shall make available to the public
8 an annual summary of the declaratory rulings and interpretive
9 statements issued by the secretary of state under this section.

10 (5) A person may file with the secretary of state a complaint
11 that alleges a violation of this act. ~~Within~~ **Not more than** 5
12 business days after a complaint that meets the requirements of
13 subsection (6) is filed, the secretary of state shall mail notice
14 to the person against whom the complaint is filed. The notice must
15 include a copy of the complaint. ~~Within~~ **Not more than** 15 business
16 days after the notice is mailed, the person against whom the
17 complaint was filed may submit a response to the secretary of
18 state. The secretary of state may extend the period for submitting
19 a response an additional 15 business days for good cause. The
20 secretary of state shall mail a copy of a response received to the
21 complainant. ~~Within~~ **Not more than** 10 business days after the
22 response is mailed, the complainant may submit a rebuttal statement
23 to the secretary of state. The secretary of state may extend the
24 period for submitting a rebuttal statement an additional 10
25 business days for good cause. The secretary of state shall provide
26 a copy of the rebuttal statement to the person against whom the
27 complaint was filed. If, on review of the complaint, the secretary
28 of state determines that the complaint is frivolous, illegible,
29 indefinite, or unsigned, or does not identify an alleged violator,

1 allege a violation of the act, or contain a verification statement,
2 the secretary of state may summarily dismiss the complaint without
3 prejudice. If a complaint is summarily dismissed, the complainant
4 must be notified in writing as to the reason the complaint was
5 dismissed. The secretary of state may consolidate similar
6 complaints.

7 (6) A complaint filed under subsection (5) must satisfy all of
8 the following requirements:

9 (a) Be signed by the complainant.

10 (b) State the name, address, and telephone number of the
11 complainant.

12 (c) Include the complainant's certification that, to the best
13 of the complainant's knowledge, information, and belief, formed
14 after a reasonable inquiry under the circumstances, each factual
15 contention of the complaint is supported by evidence. However, if,
16 after a reasonable inquiry under the circumstances, the complainant
17 is unable to certify that certain factual contentions are supported
18 by evidence, the complainant may certify that, to the best of the
19 complainant's knowledge, information, or belief, there are grounds
20 to conclude that those specifically identified factual contentions
21 are likely to be supported by evidence after a reasonable
22 opportunity for further inquiry.

23 (7) A person shall not file a complaint with a false
24 certificate under subsection (6)(c). A person may file a complaint
25 under subsection (5) alleging that another person has filed a
26 complaint with a false certificate under subsection (6)(c).

27 (8) The secretary of state shall investigate allegations
28 brought under this act. If an allegation involves the secretary of
29 state, or the secretary of state's spouse, the secretary of state

1 shall refer the matter to the attorney general to determine whether
2 a violation of this act occurred.

3 (9) ~~No~~**Not** later than 45 business days after receiving a
4 rebuttal statement submitted under subsection (5) or, if no
5 response or rebuttal is received under subsection (5), 45 business
6 days after receiving a complaint under subsection (5), the
7 secretary of state shall post on the secretary of state's website
8 whether there may be reason to believe that a violation of this act
9 occurred. If the secretary of state determines there may be reason
10 to believe that a violation of this act occurred or determines to
11 terminate its proceedings, the secretary of state shall, ~~within~~**not**
12 **more than** 30 days after that determination, post on the secretary
13 of state's website any complaint, response, or rebuttal statement
14 received under subsection (5) regarding that violation or alleged
15 violation and any correspondence that is dispositive of that
16 violation or alleged violation between the secretary of state and
17 the complainant or the person against whom the complaint was filed.
18 If the secretary of state determines that there may be reason to
19 believe that a violation of this act occurred, the secretary of
20 state shall endeavor to correct the violation or prevent a further
21 violation by using informal methods such as a conference,
22 conciliation, or persuasion, and may enter into a conciliation
23 agreement with the person involved. Unless violated, a conciliation
24 agreement is a complete bar to any further civil action with
25 respect to matters covered in the conciliation agreement. The
26 secretary of state shall, ~~within~~**not more than** 30 days after a
27 conciliation agreement is signed, post that agreement on the
28 department's website. If, after 90 business days, the secretary of
29 state is unable to correct or prevent further violation by these

1 informal methods, the secretary of state may commence a hearing as
2 provided in subsection (10) for enforcement of this act.

3 (10) The secretary of state may commence a hearing to
4 determine whether a violation of this act occurred. The hearing
5 must be conducted in accordance with chapter 4 of the
6 administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to
7 24.288.

8 (11) A final decision or order issued by the secretary of
9 state under this act is subject to judicial review as provided
10 under chapter 6 of the administrative procedures act of 1969, 1969
11 PA 306, MCL 24.301 to 24.306. The secretary of state shall deposit
12 a civil fine imposed under this act in the general fund. The
13 secretary of state may bring an action in circuit court to recover
14 the amount of a civil fine.

15 (12) The secretary of state shall review a report or statement
16 filed under this act and may investigate an apparent violation of
17 this act. If the secretary of state determines that there may be
18 reason to believe a violation of this act occurred and the
19 procedures prescribed in subsection (9) have been complied with,
20 the secretary of state may commence a hearing under subsection (10)
21 to determine whether a violation of this act occurred.

22 (13) There is no private right of action, either in law or in
23 equity, under this act. The remedies provided in this act are the
24 exclusive means by which this act may be enforced and by which any
25 harm resulting from a violation of this act may be redressed.

26 (14) The secretary of state shall preserve a report filed
27 under this act for 15 years after the date the report is filed. If
28 the secretary of state or attorney general determines under this
29 section that a violation of this act occurred, the secretary of

1 state shall preserve all complaints, orders, decisions, or other
2 documents related to that violation for 15 years after the date of
3 the determination or the date the violation is corrected, whichever
4 is later. Reports filed under this act may be reproduced under the
5 records reproduction act, 1992 PA 116, MCL 24.401 to 24.406. After
6 the required preservation period, the reports, or the reproductions
7 of the reports, may be disposed of in the manner prescribed in the
8 management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594, and
9 section 11 of the Michigan history center act, 2016 PA 470, MCL
10 399.811.

11 Sec. 15. (1) An individual who fails to file a report as
12 required under this act shall pay a late filing fee of \$25.00 for
13 each business day after the first 10 business days that the report
14 remains unfiled. The fee imposed under this subsection must not
15 exceed \$1,000.00.

16 (2) A late filing fee collected under this act must be
17 deposited into the general fund.

18 (3) An individual who knowingly files an incomplete or
19 inaccurate report in violation of this act may be ordered to pay a
20 civil fine of not more than \$2,000.00.

21 (4) A late filing fee assessed or civil fine imposed under
22 this act that remains unpaid for more than 180 days must be
23 referred to the department of treasury for collection.

24 (5) The amount of a late filing fee assessed or civil fine
25 imposed under this act must be adjusted for inflation every 4 years
26 using the ~~Detroit~~ Consumer Price Index.