

FOREIGN DONATIONS FOR ELECTION ADMINISTRATION

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<http://www.house.mi.gov/hfa>

House Bill 5198 as introduced
Sponsor: Rep. William Bruck
Committee: Election Integrity
Complete to 11-3-25

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 5198 would amend the Michigan Election Law to require individuals or other entities providing support for election administration to first file a certification with the secretary of state as to whether they knowingly receive foreign donations. The certification would have to be renewed annually and updated as needed. The bill would provide criminal penalties for noncompliance.

Certification

Under the bill, a *person* entering into an agreement, membership, or program with a *governmental entity* to provide support for *election administration* (including funds, in-kind goods or services, or other services) would have to file a signed and dated certification with the secretary of state as to whether they are knowingly a recipient of *foreign donations*. The certification would have to be filed at least 10 days before the agreement, membership, or program is entered into, and it would have to be signed by the person under penalty of perjury.

Person would mean an individual, partnership, association, corporation, organization, or any other combination or group of individuals. For purposes of the bill's certification requirements, the term *person* would not include a governmental entity.

Governmental entity would mean a county, city, township, village, or other municipal entity.

Election administration would mean participating in any way in the process of conducting or implementing an election, but would not include a postelection canvass, recount, contest, or audit process.

Foreign donation would mean a payment, gift, subscription, loan, advance, deposit, or anything of value provided by a *foreign national* without consideration.

Foreign national would mean any of the following:

- An individual who is not a citizen of the United States.
- A government, or subdivision, of a foreign country.
- A municipality of a foreign country.
- A foreign political party.
- An entity that is organized under the laws of a foreign country, or that has its principal place of business in a foreign country, including a partnership, association, corporation, organization, or other combination of persons.

For purposes of filing a certification, a person would be considered to be knowingly a recipient of foreign donations if any of the following circumstances apply:

- The person has actual knowledge that the source of funds received is a foreign national.
- The person is aware of facts that would lead a reasonable person to conclude that there is a substantial probability that the source of the funds is a foreign national.
- The person is aware of facts that would lead a reasonable person to inquire whether the source of the funds is a foreign national, but fails to conduct a reasonable inquiry.

A person that files a certification would have to renew it on an annual basis. In addition, a person would have to update their certification no later than five business days after receiving any new information that changes it.

Records and reports

The secretary of state would have to maintain a record of each certification filed as described above.

Every governmental entity in the state would have to provide the secretary of state with a quarterly report that lists any person that provides it with support for election administration as described above.

The secretary of state would have to audit those quarterly reports to ensure compliance with the bill.

Penalties

A person that knowingly fails to provide an accurate or updated certification in compliance with the bill would be guilty of a misdemeanor punishable by either the following:

- If the person is an individual, imprisonment for up to 90 days or a fine of up to \$1,000, or both.
- If the person is other than an individual, a fine of up to \$10,000.

Other provisions

The bill would prohibit a governmental entity from enacting or enforcing a law or ordinance that conflicts with the bill, and any such law or ordinance would be void and unenforceable.

The secretary of state would have to post each certification it receives on the Department of State website.

The secretary of state would have to develop and issue rules to implement the bill.

MCL 168.645a

FISCAL IMPACT:

House Bill 5198 would have an indeterminate fiscal impact on the state and local units of government related to whether the bill precludes an agreement, membership, or program between a governmental entity and a foreign national for election administration that would provide funding or cost savings to that governmental entity.

The bill also would have an indeterminate fiscal impact on the state and local units of government related to its penalty provisions. Under the bill, if a person knowingly fails to provide an accurate or updated certification, the person would be guilty of a misdemeanor punishable by imprisonment for up to 90 days, a fine of up to \$1,000, or both, if the person is an individual. If the person is other than an individual, the fine amount would be increased to up to \$10,000. Misdemeanor convictions would increase costs related to county jails or local misdemeanor probation supervision. Costs of local incarceration in county jails and local misdemeanor probation supervision, and how those costs are financed, vary by jurisdiction. Any increase in penal fine revenue would increase funding for public and county law libraries, which are the constitutionally designated recipients of those revenues. The fiscal impact on local court systems would depend on how provisions of the bill affected court caseloads and related administrative costs. Because there is no practical way to determine the number of violations that would occur, an estimate of the amount of costs related to county jail, penal fine revenue collections, or costs to local courts cannot be made.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.