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ELECTED OFFICIALS AND CANDIDATES: FINANCIAL DISCLOSURE

House Bill 6290

Sponsor: Rep. Paul N. DeWeese

Committee: House Oversight and Ethics

Complete to 9-20-02

A SUMMARY OF HOUSE BILL 6290 AS INTRODUCED 9-17-02

The bill would create a new act to require certain elected officials and candidates for those offices to file financial disclosure reports. The requirements would apply to individuals elected to, or running for, the office of governor, lieutenant governor, attorney general, secretary of state, state senator, state representative, and supreme court justice. Financial information regarding the spouse and dependent children of these individuals would also be required to be reported.

Filing a financial disclosure report. The bill would require that a person who takes office as one of the listed state officials, or who files as a candidate for those offices, file a report with the secretary of state within 30 days of taking office or filing to be a candidate. In the alternative, the bill would allow a person to file a copy of his or her federal income tax return and related schedules, if those documents contain all the information that is required to be disclosed. (A person who becomes a state official and who in good faith expects to be in that office for 60 days or less would not be required to file a report.) A person could request an extension of time for filing, for good cause, and the secretary of state could grant an extension for up to 90 days. A person would not be required to file a report more than once in a calendar year.

Information to be disclosed. The following information would have to be disclosed, regarding the person required to report, and regarding his or her spouse and dependent children [except as noted] for the previous calendar year.

- The source, type, and amount or value of income received, if the person received at least \$200 from the particular source. [The same information would be required of the person's spouse, if his or her income from a particular source was at least \$1,000. For a self-employed spouse, only the nature of the business or profession would be required.]
- The source, date, and amount of honoraria received from any source, if the total honoraria from that source was \$200 or more.
- The source, type, and amount or value of income that consists of dividends, rents, interest, and capital gains received, if the total income from that source was \$200 or more.
- The identity and value of any interest in property held in a trade or business, for investment, or for the production of income if the property had a fair market value of \$1,000 or more. However, a personal liability owed by a spouse or by a parent, child, or sibling to the reporting individual would not have to be reported, nor would deposits totaling \$5,000 or less in a personal savings account. However, if the value of an interest in property could not be

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ascertained without an appraisal, the bill would allow the person to list the date of purchase and the purchase price (for real estate), the assessed value of property adjusted to reflect the market value, or, the book value of stock of a nonpublicly traded company, the net worth of a business partnership, the equity value of an individually owned business, or any recognized indication of value, as applicable.

- The identity and value of each liability owed if the amount was \$10,000 or more at any time during the preceding calendar year, with the exception of the following: amounts owed to a spouse or to a parent, child, or sibling of the reporting person or his or her spouse; a mortgage on a personal residence; a personal loan for a vehicle, household appliances, or furniture; or a revolving charge account with an outstanding balance of less than \$10,000.

- A brief description, the date, and value of a purchase, sale, or exchange of real property or of stocks, bonds, commodities, futures, or other forms of securities that amount to \$1,000 or more, excluding a transaction concerning a personal residence; or a transaction solely between the reporting individual and his or her spouse or dependent child.

- The identity of all positions held by the reporting person as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of a corporation, company, firm, partnership, or other business enterprise; of a nonprofit organization; of a labor organization; or of an educational or other institution. (A person would not be required to report positions in religious, social, fraternal, or political entities, or positions that were solely honorary.)

- A description of any agreement or arrangement by or with the reporting person with respect to future employment, a leave of absence during the person's term of office, continuation of payments by a former employer other than the state, or continuation of participation in an employee welfare or benefit plan maintained by a former employer.

- All of the same information with respect to the holdings of and the income from a trust or other financial arrangement benefiting the reporting individual or his or her spouse or dependent children, except this provision would not apply to a qualified blind trust; a trust not created directly by the person or his or her spouse or children and in which none of them have knowledge of the holdings or sources of income; nor to a widely held investment fund such as a mutual fund, regulated investment fund, and the like. A trust that does not meet the requirements of the bill could be amended to satisfy those requirements, or the parties could agree in writing that the trust was to be administered as a blind trust. However, a trustee of a blind trust would be prohibited from disclosing information about the trust holdings to the reporting person (or his or her spouse or children), and they likewise would be prohibited from soliciting or receiving such information. A knowing violation would result in a civil fine of up to \$10,000, and a negligent violation would result in a civil fine of up to \$5,000.

With regard to dividends, rents, interest, and capital gains, the required information could be reported either in exact dollar amounts or values, or by categories of value, e.g., less than \$1,000; \$1,000 up to \$2,500; \$2,500 up to \$5,000; \$5,000 up to \$15,000; \$15,000 up to \$50,000; \$50,000 up to \$100,000; \$100,000 up to \$1 million; and \$1 million or more. With regard to business, investment, or income property; liabilities owed by the reporting person or family members; or the purchase, sale, or exchange of real property or stocks, bonds, etc., the information could be reported either in exact dollar amounts of values, or by categories of value,

e.g., less than \$15,000; \$15,000 up to \$50,000; \$50,000 up to \$100,000; \$100,000 up to \$250,000; \$250,000 up to \$500,000; \$500,000 up to \$1 million; and \$1 million or more.

Non-reportable items. The following would not have to be included in a financial disclosure report:

- Information reported under the Michigan Campaign Finance Act.
- An item otherwise required to be reported but that represents the sole financial interest and responsibility of a spouse or dependent child, and of which the reporting person has no actual knowledge, and that is not in any way, past or present, derived from the income, assets, or activities of the reporting person.
- An item otherwise required to be reported but that concerns a spouse who is living separate and apart from the reporting person with the intention of terminating the marriage or remaining legally separated.
- An item concerning income or obligations of the reporting person arising from the termination of his or her marriage or a permanent legal separation from a spouse.

Late filings. A person who filed a report more than 30 days after it was due or more than 30 days after the date of an extension granted under the bill would be required to pay a \$200 filing fee to the secretary of state. Fees would be credited to the general fund. The secretary of state could waive the filing fee for good cause.

Duties of secretary of state. The secretary of state would be required to prepare the forms and instructions for filing reports required by the bill, receive the reports, make reports available to the public according to the Freedom of Information Act within 30 days after filing, promulgate rules and issue declaratory rulings to implement the bill, and receive complaints and conduct investigations as necessary to determine if a violation has occurred.

Complaints, investigations, penalties. A citizen could file a complaint alleging a violation of the bill, and the secretary of state would be required to investigate. If the secretary of state found reason to believe a violation had occurred, he or she would forward the results of the investigation to the attorney general for enforcement. A person who knowingly falsified or knowingly failed to file a report would be liable for a civil fine of up to \$10,000. A default in the payment of a civil fine or a fee could be remedied by any means authorized under the Revised Judicature Act.

Analyst: D. Martens

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