

HOUSE BILL No. 4861

June 5, 2001, Introduced by Reps. Schauer, Bradstreet, Thomas, Lipsey, Vander Veen, Garza, Bovin, Ruth Johnson, Jacobs, Kooiman, Stewart, Basham, Woodward, Sheltroun, Kuipers, Schermesser, Hale, Pappageorge, Dennis and Lemmons and referred to the Committee on Energy and Technology.

A bill to amend 1976 PA 388, entitled "Michigan campaign finance act," by amending the title and sections 5, 11, and 12 (MCL 169.205, 169.211, and 169.212), the title as amended by 1994 PA 385, section 5 as amended by 1999 PA 237, section 11 as amended by 1996 PA 590, and section 12 as amended by 1995 PA 264, and by adding sections 48 and 48a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

An act to regulate political activity; to regulate campaign financing; to restrict campaign contributions and expenditures; to require campaign statements and reports; to regulate anonymous contributions; to regulate campaign advertising and literature; TO PROHIBIT CERTAIN TELEPHONE SOLICITATIONS BY PROFESSIONAL FUND-RAISERS; to provide for segregated funds for political

1 purposes; to provide for the use of public funds for political
2 purposes; to create certain funds; to provide for reversion,
3 retention, or refunding of unexpended balances in certain funds;
4 to require other statements and reports; to regulate acceptance
5 of certain gifts, payments, and reimbursements; to prescribe the
6 powers and duties of certain state departments and state and
7 local officials and employees; to provide appropriations; to pre-
8 scribe penalties and provide remedies; and to repeal ~~certain~~
9 acts and parts of acts.

10 Sec. 5. (1) "Domestic dependent sovereign" means an Indian
11 tribe that has been acknowledged, recognized, restored, or reaf-
12 firmed as an Indian tribe by the secretary of the interior pursu-
13 ant to chapter 576, 48 Stat. 984, 25 U.S.C. 461 to 463, 464 to
14 465, 466 to 470, 471 to 472, 473, 474 to 475, 476 to 478, and
15 479, commonly referred to as the Indian reorganization act, or
16 has otherwise been acknowledged by the United States government
17 as an Indian tribe.

18 (2) "DO-NOT-CALL LIST" MEANS A DO-NOT-CALL LIST MAINTAINED
19 OR DESIGNATED BY THE COMMISSION UNDER SECTION 48.

20 (3) ~~(2)~~ "Election" means a primary, general, special, or
21 millage election held in this state or a convention or caucus of
22 a political party held in this state to nominate a candidate.
23 Election includes a recall vote.

24 (4) ~~(3)~~ "Election cycle" means 1 of the following:

25 (a) For a general election, the period beginning the day
26 following the last general election in which the office appeared

1 on the ballot and ending on the day of the general election in
2 which the office next appears on the ballot.

3 (b) For a special election, the period beginning the day a
4 special general election is called or the date the office becomes
5 vacant, whichever is earlier, and ending on the day of the spe-
6 cial general election.

7 (5) ~~(4)~~ "Elective office" means a public office filled by
8 an election. A person who is appointed to fill a vacancy in a
9 public office that is ordinarily elective holds an elective
10 office. Elective office does not include the office of precinct
11 delegate. Except for the purposes of sections 47, 54, and 55,
12 elective office does not include a school board member in a
13 school district that has a pupil membership of 2,400 or less
14 enrolled on the most recent pupil membership count day. However,
15 elective office includes a school board member in a school dis-
16 trict that has a pupil membership of 2,400 or less, if a candi-
17 date committee of a candidate for the office of school board
18 member in that school district receives an amount in excess of
19 \$1,000.00 or expends an amount in excess of \$1,000.00. Elective
20 office does not include a federal office except for the purposes
21 of section 57.

22 Sec. 11. (1) "Person" means a business, individual, propri-
23 etorship, firm, partnership, joint venture, syndicate, business
24 trust, labor organization, company, corporation, association,
25 committee, or ~~any other~~ ANOTHER organization or group of per-
26 sons acting jointly.

1 (2) "Political committee" means a committee that is not a
2 candidate committee, political party committee, independent
3 committee, or ballot question committee.

4 (3) "Political merchandise" means goods such as bumper
5 stickers, pins, hats, beverages, literature, or other items sold
6 by a person at a fund-raiser or to the general public for public-
7 ity or for the purpose of raising funds to be used in supporting
8 or opposing a candidate for nomination for or election to an
9 elective office or in supporting or opposing the qualification,
10 passage, or defeat of a ballot question.

11 (4) "Political party" means a political party ~~which~~ THAT
12 has a right under law to have the names of its candidates listed
13 on the ballot in a general election.

14 (5) "Political party committee" means a state central, dis-
15 trict, or county committee of a political party which is a
16 committee. Each state central committee shall designate the
17 official party county and district committees. There shall not
18 be more than 1 officially designated political party committee
19 per county and per congressional district.

20 (6) "PROFESSIONAL FUND-RAISER" MEANS A PERSON WHO FOR COM-
21 PENSATION OR OTHER CONSIDERATION PLANS, CONDUCTS, MANAGES, OR
22 CARRIES ON A DRIVE OR CAMPAIGN OF SOLICITING CONTRIBUTIONS FOR OR
23 ON BEHALF OF A CANDIDATE OR COMMITTEE, OR WHO ENGAGES IN THE
24 BUSINESS OF OR HOLDS HIMSELF OR HERSELF OUT AS INDEPENDENTLY
25 ENGAGED IN THE BUSINESS OF SOLICITING CONTRIBUTIONS FOR THOSE
26 PURPOSES. THE TERM INCLUDES A PERSON WHO IS EMPLOYED OR RETAINED

1 FOR COMPENSATION BY A PROFESSIONAL FUND-RAISER TO SOLICIT
2 CONTRIBUTIONS.

3 (7) ~~(6)~~ "Public body" means 1 or more of the following:

4 (a) A state agency, department, division, bureau, board,
5 commission, council, authority, or other body in the executive
6 branch of state government.

7 (b) The legislature or an agency, board, commission, or
8 council in the legislative branch of state government.

9 (c) A county, city, township, village, intercounty, inter-
10 city, or regional governing body; a council, school district,
11 special district, or municipal corporation; or a board, depart-
12 ment, commission, or council or an agency of a board, department,
13 commission, or council.

14 (d) Any other body that is created by state or local author-
15 ity or is primarily funded by or through state or local authori-
16 ty, which body exercises governmental or proprietary authority or
17 performs a governmental or proprietary function.

18 Sec. 12. (1) "Qualifying contribution" means a contribution
19 of money made by a written instrument by an individual to the
20 candidate committee of a candidate for the office of governor
21 that is \$100.00 or less and made after April 1 of the year pre-
22 ceding a year in which a governor is to be elected. Not more
23 than \$100.00 of an individual's total aggregate contribution may
24 be used as a qualifying contribution in any calendar year.
25 Qualifying contribution does not include a subscription, loan,
26 advance, deposit of money, in-kind contribution or expenditure,
27 or anything else of value except as prescribed in this act.

1 Qualifying contribution does not include a contribution by an
2 individual who resides outside of this state. For purposes of
3 this subsection, an individual is considered to reside in this
4 state if he or she is considered a resident of this state under
5 the Michigan election law, ~~Act No. 116 of the Public Acts of~~
6 ~~1954, being sections 168.1 to 168.992 of the Michigan Compiled~~
7 ~~Laws~~ 1954 PA 116, MCL 168.1 TO 168.992.

8 (2) "Senate political party caucus committee" means an inde-
9 pendent committee established by a political party caucus of the
10 state senate under section 24a.

11 (3) "State elective office" means the office of governor,
12 lieutenant governor, secretary of state, attorney general, jus-
13 tice of the supreme court, member of the state board of educa-
14 tion, regent of the university of Michigan, member of the board
15 of trustees of Michigan state university, member of the board of
16 governors of Wayne state university, and member of the state
17 legislature.

18 (4) "TELEPHONE SOLICITOR" MEANS A PROFESSIONAL FUND-RAISER
19 DOING BUSINESS IN THIS STATE WHO MAKES OR CAUSES TO BE MADE A
20 TELEPHONE SOLICITATION FROM WITHIN OR OUTSIDE OF THIS STATE,
21 INCLUDING, BUT NOT LIMITED TO, CALLS MADE BY USE OF AUTOMATED
22 DIALING AND ANNOUNCING DEVICES OR BY A LIVE PERSON.

23 (5) "TELEPHONE SOLICITATION" MEANS A VOICE COMMUNICATION
24 OVER THE TELEPHONE TO AN INDIVIDUAL FOR THE PURPOSE OF
25 FUND-RAISING. TELEPHONE SOLICITATION DOES NOT INCLUDE EITHER OF
26 THE FOLLOWING:

1 (A) A VOICE COMMUNICATION TO AN INDIVIDUAL WITH THAT
2 INDIVIDUAL'S PRIOR EXPRESS INVITATION OR PERMISSION.

3 (B) A VOICE COMMUNICATION TO AN INDIVIDUAL WHO, WITHIN THE
4 PAST 2 YEARS, HAS MADE A CONTRIBUTION TO THE CANDIDATE OR COMMIT-
5 TEE ON WHOSE BEHALF THE TELEPHONE SOLICITOR IS CALLING.

6 SEC. 48. (1) WITHIN 90 DAYS AFTER THE EFFECTIVE DATE OF THE
7 AMENDATORY ACT THAT ADDED THIS SECTION, THE PUBLIC SERVICE COM-
8 MISSION SHALL DO 1 OF THE FOLLOWING:

9 (A) ESTABLISH A STATE DO-NOT-CALL LIST. IF THE PUBLIC SERV-
10 ICE COMMISSION ESTABLISHES A STATE DO-NOT-CALL LIST, IT SHALL
11 PUBLISH THAT LIST QUARTERLY FOR USE BY TELEPHONE SOLICITORS. THE
12 COMMISSION MAY AT ANY TIME CEASE TO MAINTAIN A LIST UNDER THIS
13 SUBDIVISION AND MAKE A DESIGNATION UNDER SUBDIVISION (B).

14 (B) INVESTIGATE ANY NATIONAL DO-NOT-CALL LISTS THEN IN EXIS-
15 TENCE AND AFTER CONSIDERATION OF EACH LIST'S ACCESSIBILITY TO
16 TELEPHONE SOLICITORS AND EASE AND COST OF REGISTRATION FOR INDI-
17 VIDUALS SEEKING INCLUSION, DESIGNATE A LIST AS THE AUTHORIZED
18 DO-NOT-CALL LIST. THE PUBLIC SERVICE COMMISSION MAY REVIEW AND
19 MAKE A DIFFERENT DESIGNATION UNDER THIS SUBDIVISION AT ANY TIME
20 IF THE COMMISSION DETERMINES THAT AN ALTERNATIVE DO-NOT-CALL LIST
21 PROVIDES SUPERIOR ACCESSIBILITY TO TELEPHONE SOLICITORS AND EASE
22 AND COST OF REGISTRATION FOR INDIVIDUALS SEEKING INCLUSION OR IF
23 THE ORGANIZATION MAINTAINING A PREVIOUSLY DESIGNATED DO-NOT-CALL
24 LIST ENGAGES IN ACTIVITIES THE COMMISSION CONSIDERS CONTRARY TO
25 THE PUBLIC INTEREST. THE COMMISSION MAY AT ANY TIME DISCONTINUE
26 A DESIGNATION UNDER THIS SUBDIVISION AND ESTABLISH AND MAINTAIN A
27 LIST UNDER SUBDIVISION (A).

1 (2) IN DETERMINING WHETHER TO ESTABLISH OR DESIGNATE A
2 DO-NOT-CALL LIST UNDER SUBSECTION (1), OR IN DESIGNATING A
3 DO-NOT-CALL LIST UNDER SUBSECTION (1)(B), THE PUBLIC SERVICE COM-
4 MISSION SHALL CONSIDER COMMENTS FROM INDIVIDUALS, TELEPHONE
5 SOLICITORS, OR ANY OTHER PERSON.

6 (3) BEGINNING 90 DAYS AFTER THE PUBLIC SERVICE COMMISSION
7 ESTABLISHES OR DESIGNATES A DO-NOT-CALL LIST UNDER SUBSECTION
8 (1), A TELEPHONE SOLICITOR SHALL NOT MAKE A TELEPHONE SOLICITA-
9 TION TO AN INDIVIDUAL WHOSE NAME IS ON THE THEN-CURRENT VERSION
10 OF THE DO-NOT-CALL LIST.

11 (4) A TELEPHONE SOLICITOR SHALL NOT USE A DO-NOT-CALL LIST
12 FOR A PURPOSE OTHER THAN MEETING THE REQUIREMENTS OF SUBSECTION
13 (3).

14 (5) IF THE PUBLIC SERVICE COMMISSION ESTABLISHES AND MAIN-
15 TAINS THE DO-NOT-CALL LIST UNDER SUBSECTION (1), THE COMMISSION
16 SHALL NOT SELL OR TRANSFER THE DO-NOT-CALL LIST TO ANY PERSON FOR
17 ANY PURPOSE UNRELATED TO THIS SECTION.

18 SEC. 48A. (1) AT THE BEGINNING OF A TELEPHONE SOLICITATION,
19 A TELEPHONE SOLICITOR MAKING A TELEPHONE SOLICITATION TO AN INDI-
20 VIDUAL SHALL STATE HIS OR HER NAME AND THE FULL NAME OF THE CAN-
21 DIDATE, COMMITTEE, ORGANIZATION, OR OTHER PERSON ON WHOSE BEHALF
22 THE CALL WAS INITIATED AND PROVIDE A TELEPHONE NUMBER OF THE CAN-
23 DIDATE, COMMITTEE, ORGANIZATION, OR OTHER PERSON ON REQUEST. A
24 NATURAL PERSON MUST BE AVAILABLE TO ANSWER THE TELEPHONE NUMBER
25 AT ANY TIME WHEN TELEPHONE SOLICITATIONS ARE BEING MADE.

26 (2) THE PERSON ANSWERING THE TELEPHONE NUMBER REQUIRED UNDER
27 SUBSECTION (1) SHALL PROVIDE AN INDIVIDUAL CALLING THE TELEPHONE

1 NUMBER WITH INFORMATION DESCRIBING THE CANDIDATE, COMMITTEE,
2 ORGANIZATION, OR OTHER PERSON ON WHOSE BEHALF THE TELEPHONE
3 SOLICITATION WAS MADE TO THE INDIVIDUAL AND DESCRIBING THE TELE-
4 PHONE SOLICITATION.

5 (3) A TELEPHONE SOLICITOR SHALL NOT INTENTIONALLY BLOCK OR
6 OTHERWISE INTERFERE WITH THE CALLER ID FUNCTION ON THE TELEPHONE
7 OF AN INDIVIDUAL TO WHOM A TELEPHONE SOLICITATION IS MADE SO THAT
8 THE TELEPHONE NUMBER OF THE CALLER IS NOT DISPLAYED ON THE TELE-
9 PHONE OF THE INDIVIDUAL.

10 (4) A TELEPHONE SOLICITOR SHALL NOT MAKE A TELEPHONE SOLICI-
11 TATION THAT CONSISTS IN WHOLE OR IN PART OF A RECORDED MESSAGE.