

SENATE BILL No. 64

January 25, 2017, Introduced by Senators BIEDA and HOPGOOD and referred to the Committee on Elections and Government Reform.

A bill to regulate political activity; to regulate certain candidates for elective office and state and local officials; to require financial statements and reports; to prescribe the powers and duties of certain state and local governmental officers and agencies; to impose fees; to prescribe penalties and civil sanctions; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "financial disclosure act".

3 Sec. 2. As used in this act:

4 (a) "Bureau of elections" means the bureau provided for by
5 section 32 of the Michigan election law, 1954 PA 116, MCL 168.32.

6 (b) "Candidate" means that term as defined in section 3 of the
7 Michigan campaign finance act, 1976 PA 388, MCL 169.203.

1 (c) "Candidate for state or local office" means a candidate
2 for any of the following offices:

3 (i) Governor.

4 (ii) Lieutenant governor.

5 (iii) Secretary of state.

6 (iv) Attorney general.

7 (v) State senator.

8 (vi) State representative.

9 (vii) Member of the state board of education.

10 (viii) Justice of the supreme court or judge of a court of
11 record.

12 (ix) Regent of the University of Michigan, member of the board
13 of trustees of Michigan State University, or member of the board of
14 governors of Wayne State University.

15 (x) An elective public office for which the compensation is
16 greater than 2 times the statewide median gross income as
17 determined under section 143(f) of the internal revenue code of
18 1986, 26 USC 143(f).

19 (d) "Earned income" means salaries, tips, or other
20 compensation, and net earnings from self-employment for the taxable
21 year.

22 (e) "Immediate family" means a dependent child, a spouse of an
23 individual, or a person claimed by that individual or that
24 individual's spouse as a dependent for federal income tax purposes.

25 (f) "Income" means money or any thing of value received, or to
26 be received as a claim on future services, whether in the form of a
27 fee, salary, expense, allowance, forbearance, forgiveness,

1 interest, dividend, royalty, rent, capital gain, or any other form
2 of recompense that is considered income under the internal revenue
3 code of 1986, 26 USC 1 to 9834.

4 (g) "Principal residence" means that term as defined under
5 section 7dd of the general property tax act, 1893 PA 206, MCL
6 211.7dd.

7 (h) "State or local official" means any of the following:

8 (i) The holder of an office described in subdivision (c).

9 (ii) The head of each principal department as described in
10 section 3 of article V of the state constitution of 1963, if the
11 office is filled by appointment.

12 (iii) A member of a board or commission heading a principal
13 department as described in section 3 of article V of the state
14 constitution of 1963, if the office is filled by appointment.

15 Sec. 3. (1) If an individual is a state or local official at
16 any time during a calendar year, that individual shall file with
17 the bureau of elections by May 1 of the following year a report
18 that meets the requirements of section 4. This subsection does not
19 apply to an individual who was a state or local official only on
20 the first day of the calendar year.

21 (2) If an individual is a candidate for state or local office
22 and has not already filed a report under subsection (1) covering
23 the preceding calendar year, that individual shall file with the
24 bureau of elections a report that meets the requirements of section
25 4 within 30 days after the earliest of the following events, but
26 not later than 11 days before the first election at which the
27 individual's name appears on the ballot as a candidate following

1 the event:

2 (a) If the individual files a fee, affidavit of incumbency, or
3 nominating petition for the state office, the deadline for filing
4 the fee, affidavit of incumbency, or nominating petition
5 established under the Michigan election law, 1954 PA 116, MCL 168.1
6 to 168.992.

7 (b) If the individual is nominated at a political party caucus
8 or convention, the deadline for holding the caucus or convention
9 established under the Michigan election law, 1954 PA 116, MCL 168.1
10 to 168.992.

11 (c) The date on which the individual first receives a
12 contribution, makes an expenditure, or gives consent for another
13 person to receive a contribution or make an expenditure with the
14 purpose or intent of bringing about the individual's nomination or
15 election to a state office.

16 (d) The date on which the individual forms a candidate
17 committee as a candidate for state or local office under section 21
18 of the Michigan campaign finance act, 1976 PA 388, MCL 169.221.

19 (3) An individual who is a candidate for the office of
20 governor shall file with the bureau of elections on June 15 of the
21 year in which the election for the office of governor will be held
22 a copy of the individual's federal tax returns for the 3 preceding
23 calendar years. A social security number on a tax return filed
24 under this subsection may be redacted.

25 Sec. 4. (1) Subject to section 5 and except as provided in
26 section 6, a report required under section 3 must include a
27 complete statement of all of the following:

1 (a) The full name, address, occupation of, and the state
2 office held or sought by, the individual filing the report.

3 (b) The name of each member of the immediate family of the
4 individual filing the report.

5 (c) The name and address of each employer of the individual
6 filing the report during the calendar year covered by the report.

7 (d) Both of the following, as applicable:

8 (i) The source, type, and amount or value of earned income
9 received during the preceding calendar year by the individual
10 filing the report if the total earned income from that source
11 equals \$1,000.00 or more during that calendar year.

12 (ii) The source and type of earned income received during the
13 preceding calendar year by the spouse of the individual filing the
14 report if the total earned income from that source equals \$1,000.00
15 or more during that calendar year.

16 (e) The source, type, and amount or value of all other income
17 not reported under subdivision (d) that is received during the
18 preceding calendar year by the individual filing the report or a
19 member of the immediate family of that individual if the total
20 income from that source equals \$1,000.00 or more during that
21 calendar year.

22 (f) The identity and value of each asset held during the
23 preceding calendar year by the individual filing the report or a
24 member of the immediate family of that individual, including real
25 or personal property or cash, if the asset had a fair market value
26 of \$10,000.00 or more at any time the asset was held during the
27 preceding calendar year. However, if the individual filing the

1 report owns or has an interest in all or a portion of a farm or
2 business, he or she is not required to report the identity and
3 value of each asset held during the preceding year that is used in
4 the operation of the farm or business under this subdivision if the
5 report includes a complete statement of the identity and value of
6 the farm or business.

7 (g) The identity and value of each liability owed during the
8 preceding calendar year by the individual filing the report or a
9 member of the immediate family of that individual if the amount of
10 the liability was \$10,000.00 or more at any time during the
11 preceding calendar year. This subdivision does not apply to loans
12 secured by the principal residence of the individual filing the
13 report or by a personal motor vehicle, household furniture, or
14 appliance, if the loans do not exceed the greater of the purchase
15 price or the market value of the item that secures the liability.

16 (h) A brief description and value of a purchase, sale, or
17 exchange of real property, other than real property used solely as
18 a principal residence by the individual filing the report and his
19 or her immediate family, or of stocks, bonds, commodities, futures,
20 or other forms of securities during the preceding calendar year by
21 the individual filing the report or a member of the immediate
22 family of that individual, if the value is \$1,000.00 or more. This
23 subdivision does not require a description of each purchase, sale,
24 or exchange of stocks, bonds, commodities, or other forms of
25 securities if those items are part of a mutual fund and if the
26 identity and value of the mutual fund is otherwise reported under
27 this act.

1 (i) Except as otherwise provided under this subdivision, the
2 identity of all positions held by the individual filing the report
3 during the preceding calendar year as an officer, director, member,
4 trustee, partner, proprietor, representative, employee, or
5 consultant of a corporation, limited liability company, limited
6 partnership, partnership, or other business enterprise; of a
7 nonprofit organization; of a labor organization; or of an
8 educational or other institution other than this state. If an
9 individual filing the report is required to have a license to
10 practice or engage in a particular occupation or profession, he or
11 she is not required to identify a position held as a consultant of
12 a corporation unless the corporation is a publicly held corporation
13 that has shares that are listed or traded over the counter or on an
14 organized exchange or has gross revenues over \$4,000,000.00. This
15 subdivision does not require the reporting of a position held in a
16 religious, social, fraternal, or political entity, or of a position
17 solely of an honorary nature.

18 (j) If the individual filing the report has an agreement or
19 has made an arrangement with respect to future employment, a leave
20 of absence during that individual's term of office, continuation of
21 payments by a former employer, or continuation of participation in
22 an employee benefit plan maintained by a former employer, a
23 description of the agreement or arrangement, including the dates,
24 parties, and terms.

25 (2) Information an individual is required to report under this
26 section includes information with respect to the holdings of and
27 the income from a trust or other financial arrangement from which

1 income is received by, or with respect to which a beneficial
2 interest in principal or income is held by, an individual required
3 to file a report under this section or an immediate family member
4 of the individual.

5 Sec. 5. (1) An amount or value reported under section 4(d),
6 (e), (f), or (h) must be reported by category as follows:

7 (a) \$1,000.00 or more but less than \$10,000.00.

8 (b) \$10,000.00 or more but less than \$50,000.00.

9 (c) \$50,000.00 or more but less than \$100,000.00.

10 (d) \$100,000.00 or more but less than \$500,000.00.

11 (e) \$500,000.00 or more.

12 (2) An amount or value reported under section 4(g) must be
13 reported by category as follows:

14 (a) \$10,000.00 or more but less than \$50,000.00.

15 (b) \$50,000.00 or more but less than \$100,000.00.

16 (c) \$100,000.00 or more but less than \$500,000.00.

17 (d) \$500,000.00 or more.

18 (3) Instead of specifying the category of the amount or value
19 of an item in a report under this act, an individual may indicate
20 the exact amount or value of the item.

21 Sec. 6. A person filing a report under section 3 may omit any
22 of the following:

23 (a) Information a person is required to report under the
24 Michigan campaign finance act, 1976 PA 388, MCL 169.201 to 169.282.

25 (b) A liability owed to the individual filing the report or a
26 relative within the third degree of consanguinity to that
27 individual if lent by the individual filing the report or a

1 relative within the third degree of consanguinity to that
2 individual.

3 (c) An item otherwise required to be reported under section
4 4(f), (g), or (h) if all of the following apply:

5 (i) The item represents the sole financial interest and
6 responsibility of a member of the immediate family of the
7 individual filing the report about which the individual filing the
8 report does not have actual knowledge.

9 (ii) The item is not in any way, past or present, derived from
10 the income, assets, or activities of the individual filing the
11 report.

12 (iii) The individual filing the report does not derive, or
13 expect to derive, financial benefit from the item.

14 (d) An item that concerns a spouse who is living separate and
15 apart from the individual filing the report with the intention of
16 terminating the marriage or maintaining a legal separation.

17 (e) An item that concerns income or obligations of the
18 individual filing the report arising from dissolution of his or her
19 marriage or a permanent legal separation from his or her spouse.

20 (f) Compensation from a publicly held corporation that has
21 shares that are listed or traded over the counter or on an
22 organized exchange paid to a business owned by the individual
23 filing the report or in which the individual filing the report has
24 an interest, if the report under section 4 includes a complete
25 statement of the identity and value of that business and the
26 individual filing the report is required to have a license as
27 described in section 4(i).

1 (g) Benefits received under the social security act, chapter
2 531, 49 Stat. 620.

3 Sec. 7. The bureau of elections shall do all of the following:

4 (a) Prepare and make available appropriate forms and
5 instructions for the reports required by this act.

6 (b) Receive reports required by this act.

7 (c) As soon as practicable, but not later than the end of the
8 business day on which a report required to be filed under this act
9 is received, make the report or all of the contents of the report
10 available without charge to the public on the internet at a single
11 website established and maintained by the secretary of state, and
12 not later than the third business day following the day on which
13 the report is received, make the report available for public
14 inspection and reproduction during regular business hours.

15 (d) Promulgate rules and issue declaratory rulings to
16 implement this act under the administrative procedures act of 1969,
17 1969 PA 306, MCL 24.201 to 24.328.

18 (e) Conduct investigations as necessary to determine whether
19 there is reason to believe that a violation of this act occurred.
20 The bureau of elections shall conduct an investigation under the
21 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
22 24.328.

23 Sec. 8. (1) A citizen of this state may file a complaint with
24 the bureau of elections alleging a violation of this act. If it
25 receives a complaint, the bureau of elections shall investigate the
26 allegations as provided in section 7.

27 (2) If the bureau of elections determines after an

1 investigation that there is reason to believe a violation of this
2 act occurred, the bureau of elections shall forward the results of
3 that investigation to the attorney general for enforcement of this
4 act, if the attorney general is not the subject of the complaint.
5 If the bureau of elections determines after an investigation that
6 there is reason to believe that the attorney general violated this
7 act, the bureau of elections shall forward the results of the
8 investigation to the prosecuting attorney for Ingham county for
9 enforcement of this act.

10 (3) The attorney general or, if the attorney general is the
11 individual who is alleged to have violated this act, the
12 prosecuting attorney for Ingham County shall enforce this act
13 against an individual who violates this act.

14 Sec. 9. (1) An individual who fails to file a report as
15 required under this act shall pay a late filing fee of not more
16 than \$1,000.00, determined as follows:

17 (a) Twenty-five dollars for each of the first 3 business days
18 that the report remains unfiled.

19 (b) Fifty dollars for each of the next 7 business days after
20 the first 3 business days that the report remains unfiled.

21 (c) One hundred dollars for each business day after the first
22 10 business days that the report remains unfiled.

23 (2) If an individual required to file a report under this act
24 knowingly files an incomplete or inaccurate report, the individual
25 is guilty of a misdemeanor punishable by imprisonment for not more
26 than 90 days or a fine of not more than \$1,000.00, or both.

27 (3) If an individual required to file a report under this act

1 fails to file 2 reports and if both of the reports remain unfiled
2 for more than 30 days, the individual is guilty of a misdemeanor
3 punishable by imprisonment for not more than 90 days or a fine of
4 not more than \$1,000.00, or both.

5 (4) A default in the payment of a fee or civil fine due or
6 ordered under this act, or an installment of the fee or fine, may
7 be remedied by any means available under the revised judicature act
8 of 1961, 1961 PA 236, MCL 600.101 to 600.9947.

9 Enacting section 1. This act takes effect 90 days after the
10 date it is enacted into law.