

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 613

A bill to require certain public officers to file annual financial disclosure reports; to create a financial disclosure form; to prescribe penalties and civil sanctions; and to provide for the powers and duties of certain state and local governmental officers and entities.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) This act may be cited as the "public officers
2 financial disclosure act".

3 (2) The financial disclosures required by this act represent a
4 minimum expectation of transparency, and individuals subject to
5 this act are encouraged to make financial disclosures in addition
6 to those required by this act.

7 Sec. 3. As used in this act:

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

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

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

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

9 (e) "Gift" means that term as defined in section 7 of the
10 Michigan campaign finance act, 1976 PA 388, MCL 169.207.

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

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

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

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

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

24 (k) "Public officer" means all of the following:

25 (i) A state representative.

26 (ii) A state senator.

27 (iii) The attorney general.

28 (iv) The governor.

29 (v) The lieutenant governor.

1 (vi) The secretary of state.

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

4 (m) "Reporting period" means the preceding calendar year.

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

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

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

17 (3) If a public officer who is required to file a report under
18 this act receives notice from the secretary of state under section
19 13(1)(g), the public officer shall, within 9 business days after
20 receiving the notice, file corrections to the errors or omissions
21 or file the report, as applicable.

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

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

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

1 (c) The name of the spouse of the public officer, the
2 occupation of the public officer's spouse, and the name of the
3 employer or employers of the public officer's spouse.

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

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

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

21 (g) Except as otherwise provided in this subdivision, a list
22 of each asset, excluding a business asset, held for investment or
23 production of income with a fair market value of \$1,000.00 or more
24 during the reporting period and any sources of unearned income that
25 exceed \$200.00 during the reporting period. The fair market value
26 for the purpose of listing each asset, excluding a business asset,
27 held for investment or production of income under this subdivision
28 must be adjusted for inflation every 4 years using the Detroit
29 Consumer Price Index, and rounded up to the nearest \$1,000.00.

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

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

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

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

22 (j) A list of any real property in which the public officer
23 holds an ownership or other financial interest. For purposes of
24 this subdivision, the public officer is required to include a real
25 property in the report only if that real property has a fair market
26 value of \$1,000.00 or more during the reporting period. A public
27 officer filing a report may exclude the street number of a parcel
28 of real property under this subdivision.

29 (k) The date, identity of parties to, and general terms of any

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

9 (l) A list of all gifts received and reported by a lobbyist or
10 lobbyist agent under state law.

11 (m) A list of all travel payments received and reported by a
12 lobbyist or lobbyist agent under state law.

13 (n) A list of each payment made by a lobbyist or lobbyist
14 agent to a charity in lieu of honoraria.

15 (o) If applicable, a statement indicating that the public
16 officer or the public officer's spouse is a registered vendor with
17 this state, has a majority interest in a company that is a
18 registered vendor with this state, or is employed by a company that
19 is a registered vendor with this state. If the public officer or
20 the public officer's spouse is a registered vendor with this state
21 or has a majority interest in a company that is a registered vendor
22 with this state, the public officer shall include the name of the
23 company and a description of all contracts entered into with this
24 state by the public officer, public officer's spouse, or company in
25 which the public officer or public officer's spouse has a majority
26 interest during the reporting period. If the public officer or
27 public officer's spouse is employed by a company that is a
28 registered vendor with this state, the public officer shall include
29 the name of the company and a description of all contracts entered

1 into with this state that the public officer or the public
2 officer's spouse worked on directly during the reporting period.

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

5 (3) If a public officer required to file a report under this
6 section holds a beneficial interest in a blind trust, the public
7 officer is not required to include the interests or assets of the
8 blind trust in the report. However, the public officer must
9 indicate in the public officer's report that the public officer
10 holds a beneficial interest in a blind trust. For purposes of this
11 subsection, beneficial includes, but is not limited to, the
12 interest in a trust of a qualified trust beneficiary or trust
13 beneficiary as those terms are defined under section 7103 of the
14 estates and protected individuals code, 1998 PA 386, MCL 700.7103.

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

21 Sec. 8. A public officer who is not reelected or seeking
22 reelection to public office must report to the department within 10
23 days after entering into any agreement or arrangement described in
24 section 7(1)(k) the date, identity of the parties to, and the
25 general terms of any agreement or arrangement with respect to
26 future employment that the public officer is to begin within 1 year
27 after the end of the public officer's term of office.

28 Sec. 9. A public officer filing a report under section 5 may
29 omit any of the following:

1 (a) Information an individual is required to report under the
2 Michigan campaign finance act, 1976 PA 388, MCL 169.201 to 169.282.

3 (b) An item otherwise required to be reported under section
4 7(1)(i) or (j) if all of the following apply:

5 (i) The item represents the exclusive financial interest and
6 responsibility of the public officer's spouse about which the
7 public officer does not have control.

8 (ii) The item is not in any way derived from the income,
9 assets, or activities of the public officer.

10 (iii) The public officer does not derive, or expect to derive,
11 financial benefit from the item.

12 (c) An item that concerns a spouse who is living separate and
13 apart from the public officer with the intention of terminating the
14 marriage or maintaining a legal separation.

15 (d) An item that concerns income of the public officer arising
16 from dissolution of the public officer's marriage or a permanent
17 legal separation from the public officer's spouse.

18 Sec. 11. (1) Within 30 days after the effective date of this
19 act, the department shall create a standard financial disclosure
20 form that incorporates the requirements of section 7 for use by a
21 public officer to file the financial disclosure report required
22 under this act.

23 (2) The department shall, no later than March 15, 2024, make
24 the form created under this section easily accessible on its
25 website.

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

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

1 (b) Create and operate an electronic, internet-accessible
2 system to receive all statements and reports required by this act
3 to be filed with the secretary of state.

4 (c) Create all forms, instructions, and manuals required under
5 this act.

6 (d) Issue declaratory rulings to implement this act under the
7 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
8 24.328.

9 (e) On receiving a written request and the required filing,
10 waive payment of a late filing fee if the request for the waiver is
11 based on good cause and accompanied by adequate documentation. One
12 or more of the following reasons constitute good cause for a late
13 filing fee waiver:

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

18 (ii) Other unique, unintentional factors beyond the control of
19 the public officer that are not the result of a negligent act or
20 nonaction so that a reasonably prudent person would excuse the
21 filing on a temporary basis. These factors include the loss or
22 unavailability of records because of a fire, flood, theft, or
23 similar reason and difficulties related to the transmission of the
24 filing to the secretary of state, such as exceptionally bad
25 weather.

26 (f) As soon as practicable, but not later than 5 business days
27 after a report required to be filed under this act is received,
28 make the report or all of the contents of the report available
29 without charge to the public on a separate internet webpage or its

1 website homepage.

2 (g) Within 9 business days after the deadline for filing a
3 report under this act, notify, by registered mail or email, an
4 individual of any error or omission in the individual's report or
5 that the individual failed to file the required report.

6 (2) The secretary of state shall issue a declaratory ruling
7 under this section only if the person requesting the ruling has
8 provided a reasonably complete statement of facts necessary for the
9 ruling or if the person requesting the ruling has, with the
10 permission of the secretary of state, supplied supplemental facts
11 necessary for the ruling. Within 2 business days after receiving a
12 request for a declaratory ruling, the secretary of state shall make
13 the request available in the manner provided for under subsection
14 (1)(f). An interested person may submit written comments regarding
15 the request to the secretary of state within 10 business days after
16 the date the request is made available to the public. Within 45
17 business days after receiving a declaratory ruling request, the
18 secretary of state shall make a proposed response available in the
19 manner provided for under subsection (1)(f). An interested person
20 may submit written comments regarding the proposed response to the
21 secretary of state within 5 business days after the date the
22 proposal is made available to the public. Except as otherwise
23 provided in this section, the secretary of state shall issue a
24 declaratory ruling within 60 business days after receiving a
25 request for a declaratory ruling. The secretary of state may refuse
26 to issue a declaratory ruling or an interpretive statement under
27 this act if the request is anonymous, the secretary of state
28 determines that the subject matter of the request is frivolous on
29 its face, or the request is indefinite or lacks specificity. If the

1 secretary of state refuses to issue a declaratory ruling, the
2 secretary of state shall notify the person making the request of
3 the reasons for the refusal and issue an interpretive statement
4 providing an informational response to the question presented
5 within the 60-day period. A declaratory ruling or interpretive
6 statement issued under this section must not state a general rule
7 of law, other than that which is stated in this act, or under
8 judicial order.

9 (3) Under extenuating circumstances, the secretary of state
10 may issue a notice extending, for not more than 30 business days,
11 the period during which the secretary of state shall respond to a
12 request for a declaratory ruling. The secretary of state shall not
13 issue more than 1 notice of extension for a particular request. A
14 person requesting a declaratory ruling may waive, in writing, the
15 time limitations provided by this section.

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

19 (5) A person may file with the secretary of state a complaint
20 that alleges a violation of this act. Within 5 business days after
21 a complaint that meets the requirements of subsection (6) is filed,
22 the secretary of state shall mail notice to the person against whom
23 the complaint is filed. The notice must include a copy of the
24 complaint. Within 15 business days after the notice is mailed, the
25 person against whom the complaint was filed may submit a response
26 to the secretary of state. The secretary of state may extend the
27 period for submitting a response an additional 15 business days for
28 good cause. The secretary of state shall mail a copy of a response
29 received to the complainant. Within 10 business days after the

1 response is mailed, the complainant may submit a rebuttal statement
2 to the secretary of state. The secretary of state may extend the
3 period for submitting a rebuttal statement an additional 10
4 business days for good cause. The secretary of state shall provide
5 a copy of the rebuttal statement to the person against whom the
6 complaint was filed. If, on review of the complaint, the secretary
7 of state determines that the complaint is frivolous, illegible,
8 indefinite, or unsigned, or does not identify an alleged violator,
9 allege a violation of the act, or contain a verification statement,
10 the secretary of state may summarily dismiss the complaint without
11 prejudice. If a complaint is summarily dismissed, the complainant
12 must be notified in writing as to the reason the complaint was
13 dismissed. The secretary of state may consolidate similar
14 complaints.

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

17 (a) Be signed by the complainant.

18 (b) State the name, address, and telephone number of the
19 complainant.

20 (c) Include the complainant's certification that, to the best
21 of the complainant's knowledge, information, and belief, formed
22 after a reasonable inquiry under the circumstances, each factual
23 contention of the complaint is supported by evidence. However, if,
24 after a reasonable inquiry under the circumstances, the complainant
25 is unable to certify that certain factual contentions are supported
26 by evidence, the complainant may certify that, to the best of the
27 complainant's knowledge, information, or belief, there are grounds
28 to conclude that those specifically identified factual contentions
29 are likely to be supported by evidence after a reasonable

1 opportunity for further inquiry.

2 (7) A person shall not file a complaint with a false
3 certificate under subsection (6) (c). A person may file a complaint
4 under subsection (5) alleging that another person has filed a
5 complaint with a false certificate under subsection (6) (c).

6 (8) The secretary of state shall investigate allegations
7 brought under this act. If an allegation involves the secretary of
8 state, or the secretary of state's spouse, the secretary of state
9 shall refer the matter to the attorney general to determine whether
10 a violation of this act occurred.

11 (9) No later than 45 business days after receiving a rebuttal
12 statement submitted under subsection (5) or, if no response or
13 rebuttal is received under subsection (5), 45 business days after
14 receiving a complaint under subsection (5), the secretary of state
15 shall post on the secretary of state's website whether there may be
16 reason to believe that a violation of this act occurred. If the
17 secretary of state determines there may be reason to believe that a
18 violation of this act occurred or determines to terminate its
19 proceedings, the secretary of state shall, within 30 days after
20 that determination, post on the secretary of state's website any
21 complaint, response, or rebuttal statement received under
22 subsection (5) regarding that violation or alleged violation and
23 any correspondence that is dispositive of that violation or alleged
24 violation between the secretary of state and the complainant or the
25 person against whom the complaint was filed. If the secretary of
26 state determines that there may be reason to believe that a
27 violation of this act occurred, the secretary of state shall
28 endeavor to correct the violation or prevent a further violation by
29 using informal methods such as a conference, conciliation, or

1 persuasion, and may enter into a conciliation agreement with the
2 person involved. Unless violated, a conciliation agreement is a
3 complete bar to any further civil action with respect to matters
4 covered in the conciliation agreement. The secretary of state
5 shall, within 30 days after a conciliation agreement is signed,
6 post that agreement on the department's website. If, after 90
7 business days, the secretary of state is unable to correct or
8 prevent further violation by these informal methods, the secretary
9 of state may commence a hearing as provided in subsection (10) for
10 enforcement of this act.

11 (10) The secretary of state may commence a hearing to
12 determine whether a violation of this act occurred. The hearing
13 must be conducted in accordance with chapter 4 of the
14 administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to
15 24.288.

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

23 (12) The secretary of state shall review a report or statement
24 filed under this act and may investigate an apparent violation of
25 this act. If the secretary of state determines that there may be
26 reason to believe a violation of this act occurred and the
27 procedures prescribed in subsection (9) have been complied with,
28 the secretary of state may commence a hearing under subsection (10)
29 to determine whether a violation of this act occurred.

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

5 (14) The secretary of state shall preserve a report filed
6 under this act for 15 years after the date the report is filed. If
7 the secretary of state or attorney general determines under this
8 section that a violation of this act occurred, the secretary of
9 state shall preserve all complaints, orders, decisions, or other
10 documents related to that violation for 15 years after the date of
11 the determination or the date the violation is corrected, whichever
12 is later. Reports filed under this act may be reproduced under the
13 records reproduction act, 1992 PA 116, MCL 24.401 to 24.406. After
14 the required preservation period, the reports, or the reproductions
15 of the reports, may be disposed of in the manner prescribed in the
16 management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594, and
17 section 11 of the Michigan history center act, 2016 PA 470, MCL
18 399.811.

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

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

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

29 (4) A late filing fee assessed or civil fine imposed under

1 this act that remains unpaid for more than 180 days must be
2 referred to the department of treasury for collection.

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

6 Enacting section 1. This act does not take effect unless
7 Senate Bill No. 614 of the 102nd Legislature is enacted into law.