



HOUSE BILL No. 4454

March 9, 1993, Introduced by Reps. Baade, Byrum, Dobronski, Porreca, Gagliardi, Agee, Jondahl, Olshove, Murphy, Harder, Points, Joe Young, Jr., Wallace, Stallworth and Shugars and referred to the Committee on House Oversight and Ethics.

A bill to amend the title and sections 15, 16, and 17 of Act No. 388 of the Public Acts of 1976, entitled

"Michigan campaign finance act,"

sections 15 and 17 as amended by Act No. 95 of the Public Acts of 1989 and section 16 as amended by Act No. 188 of the Public Acts of 1992, being sections 169.215, 169.216, and 169.217 of the Michigan Compiled Laws; and to add section 18.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 15, 16, and 17 of Act
2 No. 388 of the Public Acts of 1976, sections 15 and 17 as amended
3 by Act No. 95 of the Public Acts of 1989 and section 16 as
4 amended by Act No. 188 of the Public Acts of 1992, being sections
5 169.215, 169.216, and 169.217 of the Michigan Compiled Laws, are
6 amended and section 18 is added to read as follows:

TITLE

1
2 An act to regulate political activity; to regulate campaign
3 financing; to restrict campaign contributions and expenditures;
4 to require campaign statements and reports; to regulate anonymous
5 contributions; to regulate campaign advertising and literature;
6 to provide for segregated funds for political purposes; to pro-
7 vide for the use of public funds for political purposes; to
8 create ~~a state campaign fund~~ CERTAIN FUNDS; to provide for
9 reversion, ~~of~~ RETENTION, or refunding of ~~—~~ unexpended bal-
10 ances IN CERTAIN FUNDS; to require OTHER STATEMENTS AND reports;
11 TO REGULATE ACCEPTANCE OF CERTAIN GIFTS, PAYMENTS, AND REIMBURSE-
12 MENTS; TO PRESCRIBE THE POWERS AND DUTIES OF CERTAIN STATE
13 DEPARTMENTS AND STATE AND LOCAL OFFICIALS AND EMPLOYEES; to pro-
14 vide appropriations; to prescribe penalties AND PROVIDE REMEDIES;
15 and to repeal certain acts and parts of acts.

16 Sec. 15. (1) The secretary of state shall do all of the
17 following:

18 (a) Make available through his or her offices, and furnish
19 to county clerks, appropriate forms, instructions, and manuals
20 required by this act.

21 (b) Develop a filing, coding, and cross-indexing system for
22 the filing of required reports and statements consistent with the
23 purposes of this act, and supervise the implementation of the
24 filing systems by the clerks of the counties.

25 (c) Receive all statements and reports required by this act
26 to be filed with the secretary of state.

1 (d) Prepare forms, instructions, and manuals required under
2 this act.

3 (e) Promulgate rules and issue declaratory rulings to imple-
4 ment this act pursuant to the administrative procedures act of
5 1969, Act No. 306 of the Public Acts of 1969, as amended, being
6 sections 24.201 to 24.328 of the Michigan Compiled Laws.

7 (f) Upon receipt of a written request and the required
8 filing, waive payment of a late filing fee if the request for the
9 waiver is based on good cause and accompanied by adequate
10 documentation. ~~Any~~ ONE OR MORE of the following reasons
11 ~~shall~~ constitute good cause for a late filing fee waiver:

12 (i) The incapacitating physical illness, hospitalization,
13 accident involvement, death, or incapacitation for medical rea-
14 sons of a person required to file, a person whose participation
15 is essential to the preparation of the statement or report, or a
16 member of the immediate family of these persons.

17 (ii) Other unique, unintentional factors beyond the filer's
18 control not stemming from a negligent act or nonaction so that a
19 reasonably prudent person would excuse the filing on a temporary
20 basis. These factors include the loss or unavailability of
21 records due to a fire, flood, theft, or similar reason and diffi-
22 culties related to the transmission of the filing to the filing
23 official, such as exceptionally bad weather or strikes involving
24 transportation systems.

25 (2) A declaratory ruling shall be issued under this section
26 only if the person requesting the ruling has provided a
27 reasonably complete statement of facts necessary for the ruling

1 or if the secretary of state has permitted the person requesting
2 the ruling an opportunity to supply supplemental facts necessary
3 for the ruling. A request for a declaratory ruling that is sub-
4 mitted to the secretary of state shall be made available for
5 public inspection within 48 hours after its receipt. An inter-
6 ested person may submit written comments regarding the request to
7 the secretary of state within 10 business days after the date the
8 request is made available to the public. Within 45 business days
9 after receiving a declaratory ruling request, the secretary of
10 state shall make a proposed response available to the public. An
11 interested person may submit written comments regarding the pro-
12 posed response to the secretary of state within 5 business days
13 after the date the proposal is made available to the public.
14 Except as otherwise provided in this section, the secretary of
15 state shall issue a declaratory ruling within 60 business days
16 after a request for a declaratory ruling is received. If the
17 secretary of state refuses to issue a declaratory ruling, the
18 secretary of state shall notify the person making the request of
19 the reasons for the refusal. The secretary of state may issue an
20 interpretative statement providing an informational response to
21 the question presented. A declaratory ruling or interpretative
22 statement issued under this section shall not state a general
23 rule of law, other than that which is stated in this act, until
24 the general rule of law is promulgated by the secretary of state
25 as a rule pursuant to ~~the administrative procedures act of~~
26 ~~1969,~~ Act No. 306 of the Public Acts of 1969, ~~being sections~~

1 ~~24.201 to 24.328 of the Michigan Compiled Laws,~~ or pursuant to
2 judicial order.

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

10 (4) An annual summary of the declaratory rulings and inter-
11 pretative statements issued by the secretary of state shall be
12 made available to the public.

13 (5) A person may file a complaint with the secretary of
14 state alleging a violation of this act. Upon receipt of a com-
15 plaint, the secretary of state shall investigate the allegations
16 pursuant to the rules promulgated under this act. If the secre-
17 tary of state determines that there may be reason to believe that
18 a violation of this act has occurred, the secretary of state
19 shall endeavor to correct the violation or prevent a further vio-
20 lation by using informal methods such as a conference, concili-
21 ation, or persuasion, and may enter into a conciliation agreement
22 with the person involved. Unless violated, a conciliation agree-
23 ment is a complete bar to any further action with respect to mat-
24 ters covered in the conciliation agreement. If the secretary of
25 state is unable to correct or prevent further violation by these
26 informal methods, the secretary of state may refer the matter to
27 the attorney general for the enforcement of any criminal penalty

1 provided by this act or commence a hearing pursuant to
2 subsection (6).

3 (6) The secretary of state may commence a hearing to deter-
4 mine whether a civil violation of this act has occurred. A hear-
5 ing shall not be commenced during the period beginning 30 days
6 before an election in which the committee has received or
7 expended money and ending the day after that election except with
8 the consent of the person suspected of committing a civil
9 violation. The hearing shall be conducted ~~in accordance with~~
10 PURSUANT TO the procedures set forth in chapter 4 of the adminis-
11 trative procedures act of 1969, Act No. 306 of the Public Acts of
12 1969, being sections 24.271 to 24.287 of the Michigan Compiled
13 Laws. If after a hearing the secretary of state determines that
14 a violation of this act has occurred, the secretary of state may
15 issue an order requiring the person to pay a civil fine equal to
16 the amount of the improper contribution or expenditure plus not
17 more than \$1,000.00 for each violation. A final decision and
18 order issued by the secretary of state is subject to judicial
19 review as provided by chapter 6 of the administrative procedures
20 act of 1969, Act No. 306 of the Public Acts of 1969, being sec-
21 tions 24.301 to 24.306 of the Michigan Compiled Laws. ~~A~~ THE
22 SECRETARY OF STATE SHALL TRANSMIT A civil fine imposed AND
23 COLLECTED under this section ~~shall be deposited~~ TO THE STATE
24 TREASURER FOR DEPOSIT in the ~~general fund~~ SECRETARY OF STATE
25 COMPUTERIZATION FUND CREATED BY SECTION 18. The secretary of
26 state may bring an action in circuit court to recover the amount
27 of a civil fine.

1 (7) When a report or statement is filed pursuant to this
2 act, the secretary of state shall review the report or statement
3 and may investigate an apparent violation of this act pursuant to
4 the rules promulgated pursuant to this act. If the secretary of
5 state determines that there may be reason to believe a violation
6 of this act has occurred and the procedures prescribed in subsec-
7 tion (5) have been complied with, the secretary of state may
8 refer the matter to the attorney general for the enforcement of
9 any criminal penalty provided by this act, or commence a hearing
10 under subsection (6) to determine whether a civil violation of
11 this act has occurred.

12 (8) Unless otherwise specified in this act, a person who
13 violates a provision of this act is subject to a civil fine of
14 not more than \$1,000.00 for each violation. Civil fines are in
15 addition to, but not limited by, any criminal penalty prescribed
16 by this act.

17 (9) The secretary of state may waive the filing of a cam-
18 paign statement required under section 33, 34, or 35 if the clos-
19 ing date of the particular campaign statement falls on the same
20 or a later date as the closing date of the next campaign state-
21 ment filed by the same person, or if the period ~~which~~ THAT
22 would be otherwise covered by the next campaign statement filed
23 by the same person is 10 days or less.

24 (10) The clerk of each county shall do all of the
25 following:

1 (a) Make available through the county clerk's office the
2 appropriate forms, instructions, and manuals required by this
3 act.

4 (b) Under the supervision of the secretary of state, imple-
5 ment the filing, coding, and cross-indexing system prescribed for
6 the filing of reports and statements required to be filed with
7 the county clerk's office.

8 (c) Receive all statements and reports required by this act
9 to be filed with the county clerk's office.

10 (d) Upon written request, waive the payment of a late filing
11 fee if the request for a waiver is based on good cause as pre-
12 scribed in subsection ~~(1)(g)~~ (1)(F).

13 Sec. 16. (1) A filing official shall make a statement or
14 report required to be filed under this act available for public
15 inspection and reproduction ~~, commencing~~ DURING REGULAR BUSI-
16 NESS HOURS OF THE FILING OFFICIAL. THE FILING OFFICIAL SHALL
17 MAKE STATEMENTS AND REPORTS FILED UNDER THIS ACT AVAILABLE as
18 soon as practicable AFTER RECEIPT, but not later than the third
19 business day following the day on which ~~it~~ THE STATEMENT OR
20 REPORT is received. ~~, during regular business hours of the~~
21 ~~filing official.~~

22 (2) A FILING OFFICIAL SHALL PROVIDE A copy of a statement OR
23 REPORT or part of a statement ~~shall be provided by a filing~~
24 ~~official~~ OR REPORT at a reasonable charge.

25 (3) A PERSON SHALL NOT USE A statement OR REPORT open to the
26 public under this act ~~shall not be used~~ for any commercial
27 purpose.

1 (4) A FILING OFFICIAL SHALL PRESERVE A statement of
2 organization filed under this act ~~shall be preserved by the~~
3 ~~filing official~~ for 5 years from the official date of the
4 committee's dissolution. A FILING OFFICIAL SHALL PRESERVE A
5 statement or report filed under this act by a candidate for an
6 office with a term exceeding 4 years ~~shall be preserved by the~~
7 ~~filing official~~ for 1 year beyond that candidate's term of
8 office. ~~Any~~ A FILING OFFICIAL SHALL PRESERVE ANY other state-
9 ment or report filed under this act ~~shall be preserved by the~~
10 ~~filing official~~ for 5 years from the date the filing occurred.
11 Statements and reports filed under this act may be reproduced
12 pursuant to the records media act, ACT NO. 116 OF THE PUBLIC ACTS
13 OF 1992, BEING SECTIONS 24.401 TO 24.403 OF THE MICHIGAN COMPILED
14 LAWS. After the required preservation period, the statements and
15 reports, or the reproductions of the statements and reports,
16 shall be destroyed.

17 (5) A ~~charge~~ FILING OFFICIAL shall not ~~be collected by a~~
18 ~~filing official~~ COLLECT A FEE for the filing of a required
19 statement or report, or for a form upon which ~~the~~ A REQUIRED
20 statement or report is to be prepared. ~~, except~~ HOWEVER, A
21 FILING OFFICIAL SHALL COLLECT a late filing fee AS required by
22 this act.

23 (6) A filing official shall determine whether a statement or
24 report filed under this act complies, on its face, with the
25 requirements of this act and the rules promulgated under this
26 act. The filing official shall determine whether a statement or
27 report that is required to be filed under this act is in fact

1 filed. Within 4 business days after the deadline for filing a
2 statement or report under this act, the filing official shall
3 give notice to the filer by registered mail of an error or omis-
4 sion in the statement or report and give notice to a person the
5 filing official has reason to believe is a person required to and
6 who failed to file a statement or report. A failure to give
7 notice by the filing official under this subsection is not a
8 defense to a criminal action against the person required to
9 file.

10 (7) Within 9 business days after the report or statement is
11 required to be filed, the filer shall make any corrections in the
12 statement or report ~~filed~~ AND FILE THE CORRECTIONS with the
13 appropriate filing official. If the report or statement was not
14 filed, ~~then it shall be late filed~~ THE PERSON SHALL FILE THE
15 REPORT OR STATEMENT WITH THE APPROPRIATE FILING OFFICIAL within 9
16 business days after the time it was required to be filed, ~~and~~
17 ~~shall be~~ WHICH STATEMENT OR REPORT IS CONSIDERED LATE FILED AND
18 IS subject to late filing fees.

19 (8) After 9 business days and before 12 business days have
20 expired after the deadline for filing the statement or report,
21 the filing official shall report errors or omissions that were
22 not corrected and failures to file to the attorney general.

23 (9) A PERSON SHALL FILE A statement or report required to be
24 filed under this act ~~shall be filed~~ not later than 5 p.m. of
25 the day in which it is required to be filed. A preelection
26 statement or report due on July 25 or October 25 under section 33
27 that is postmarked by registered or certified mail, or sent by

1 express mail or other overnight delivery service, at least 2 days
2 before the deadline for filing is filed within the prescribed
3 time regardless of when it is actually delivered. Any other
4 statement or report required to be filed under this act that is
5 postmarked by registered or certified mail or sent by express
6 mail or other overnight delivery service on or before the dead-
7 line for filing is filed within the prescribed time regardless of
8 when it is actually delivered.

9 Sec. 17. (1) A person paying a late filing fee as a result
10 of that person's failure to file a statement or report shall pay
11 that fee to the filing official with whom the statement or report
12 was required to be filed.

13 (2) ~~The~~ A FILING OFFICIAL, OTHER THAN THE SECRETARY OF
14 STATE, SHALL TRANSMIT ALL late filing fees collected pursuant to
15 ~~sections 24, 33, 34, and 35,~~ THIS ACT and copying charges col-
16 lected pursuant to section 16 ~~, shall be retained by and for the~~
17 ~~use of the filing officials collecting the fees or charges to~~
18 ~~cover their expenses in administering this act~~ TO THE SECRETARY
19 OF STATE BY THE TENTH DAY OF THE MONTH FOLLOWING THE MONTH IN
20 WHICH THE FEES WERE COLLECTED. THE SECRETARY OF STATE SHALL
21 TRANSMIT ALL LATE FILING FEES COLLECTED PURSUANT TO THIS ACT AND
22 COPYING CHARGES COLLECTED PURSUANT TO SECTION 16 TO THE STATE
23 TREASURER FOR DEPOSIT IN THE SECRETARY OF STATE COMPUTERIZATION
24 FUND CREATED BY SECTION 18.

25 (3) A late filing fee assessed by a ~~county clerk~~ FILING
26 OFFICIAL, OTHER THAN THE SECRETARY OF STATE, that remains unpaid
27 for more than 60 days shall be ~~considered a debt of the county~~

~~1 and shall be collected by the county treasurer in the same manner~~
~~2 as other county debts are collected~~ TRANSFERRED TO THE SECRETARY
3 OF STATE FOR FURTHER COLLECTION EFFORTS. A late filing fee
4 assessed BY A COUNTY CLERK AND TRANSFERRED TO THE SECRETARY OF
5 STATE OR ASSESSED by the secretary of state that remains unpaid
6 for more than 180 days shall be referred to the department of
7 treasury for collection. THE STATE TREASURER SHALL DEPOSIT ALL
8 LATE FILING FEES COLLECTED PURSUANT TO THIS SUBSECTION IN THE
9 SECRETARY OF STATE COMPUTERIZATION FUND CREATED BY SECTION 18.

10 (4) ~~(3)~~ A committee, other than a candidate committee or a
11 committee making expenditures in assistance of or in opposition
12 to the qualification, passage, or defeat of a ballot question,
13 required to file with the secretary of state is not required to
14 pay a late filing fee pursuant to sections 24, 33, 34, and 35, if
15 all of the following conditions are met:

16 (a) A committee required to register as a committee fails to
17 file a statement of organization.

18 (b) The secretary of state sends to that committee notice of
19 the committee's failure to file a statement of organization.

20 (c) At the same time or after the notice described in subdi-
21 vision (b) is sent, the secretary of state sends to that commit-
22 tee notice of the committee's failure to file a campaign state-
23 ment that was due for a period that occurred before the notice of
24 failure to file a statement of organization was sent.

25 (d) Within 10 business days after the notice of failure to
26 file a statement of organization is sent, the committee files a
27 statement of organization.

1 (e) Within 10 business days after the notice of failure to
2 file a campaign statement is sent, the committee files every cam-
3 paign statement that is due.

4 (5) ~~(4)~~ Late filing fees that would have occurred except
5 for subsection ~~(3)~~ (4) shall be assessed for each statement not
6 filed before the eleventh business day after a notice of failure
7 to file is sent pursuant to subsection ~~(3)~~ (4).

8 (6) ~~(5)~~ A committee other than a candidate committee that
9 has not previously filed a statement of organization is not
10 required to pay a late filing fee pursuant to sections 24, 33,
11 34, and 35, if the committee files a statement of organization
12 and every campaign statement that is due, before the secretary of
13 state sends a notice to that committee pursuant to
14 subsection ~~(3)~~ (4).

15 SEC. 18. (1) THE SECRETARY OF STATE COMPUTERIZATION FUND IS
16 CREATED IN THE STATE TREASURY. THE PURPOSE OF THE SECRETARY OF
17 STATE COMPUTERIZATION FUND IS TO PROVIDE FOR THE COMPUTERIZATION
18 OF ALL CAMPAIGN FINANCE STATEMENTS AND REPORTS FILED WITH THE
19 SECRETARY OF STATE UNDER THIS ACT. THE SECRETARY OF STATE SHALL
20 ONLY USE MONEY IN THE SECRETARY OF STATE COMPUTERIZATION FUND FOR
21 THE ACQUISITION AND MAINTENANCE OF COMPUTER HARDWARE AND SOFTWARE
22 FOR AND THE PERSONNEL COSTS ASSOCIATED WITH THE INPUTTING AND
23 PROCESSING OF ALL CAMPAIGN FINANCE STATEMENTS AND REPORTS
24 REQUIRED TO BE FILED UNDER THIS ACT.

25 (2) ON OR BEFORE APRIL 1, 1994, THE SECRETARY OF STATE SHALL
26 SUBMIT TO THE LEGISLATURE A COMPREHENSIVE COMPUTERIZATION PLAN
27 THAT INCLUDES, BUT IS NOT LIMITED TO, THE FOLLOWING:

1 (A) THE STATUS OF COMPUTERIZATION OF CAMPAIGN FINANCE
2 STATEMENTS AND REPORTS.

3 (B) AN ANALYSIS OF THE NEEDS FOR COMPUTERIZATION OF CAMPAIGN
4 FINANCE STATEMENTS AND REPORTS.

5 (C) STANDARDS FOR COMPUTERIZATION OF CAMPAIGN FINANCE STATE-
6 MENTS AND REPORTS.

7 (D) A PLAN FOR THE DISTRIBUTION OF REVENUE FROM THE SECRE-
8 TARY OF STATE COMPUTERIZATION FUND THAT PROVIDES FOR DIRECT DIS-
9 BURSEMENTS FROM THE SECRETARY OF STATE COMPUTERIZATION FUND BY
10 THE SECRETARY OF STATE. THE SECRETARY OF STATE MAY APPROVE DIS-
11 BURSEMENTS THAT INCLUDE PAYMENT FOR SERVICES PROVIDED BY EMPLOY-
12 EES OF THIS STATE OR PRIVATE VENDORS, OR BY A COMBINATION OF
13 BOTH.

14 (3) THE SECRETARY OF STATE SHALL SUBMIT TO THE LEGISLATURE
15 AN ANNUAL UPDATE TO THE COMPREHENSIVE COMPUTERIZATION PLAN.

16 (4) THE STATE TREASURER SHALL CREDIT THE SECRETARY OF STATE
17 COMPUTERIZATION FUND WITH DEPOSITS OF PROCEEDS FROM THE COLLEC-
18 TION OF REVENUE FROM CIVIL FINES AND LATE FILING FEES COLLECTED
19 UNDER THIS ACT, APPROPRIATIONS MADE TO THE FUND, AND ALL INCOME
20 FROM INVESTMENT. THE STATE TREASURER MAY INVEST MONEY CONTAINED
21 IN THE SECRETARY OF STATE COMPUTERIZATION FUND IN ANY MANNER
22 AUTHORIZED BY LAW FOR THE INVESTMENT OF STATE MONEY. HOWEVER, AN
23 INVESTMENT SHALL NOT INTERFERE WITH ANY APPORTIONMENT, ALLOCA-
24 TION, OR PAYMENT OF MONEY AS REQUIRED BY THIS SECTION.

25 (5) THE STATE TREASURER, AT THE DIRECTION OF THE SECRETARY
26 OF STATE, SHALL DISTRIBUTE MONEY FROM THE SECRETARY OF STATE
27 COMPUTERIZATION FUND AT LEAST ANNUALLY AND MORE OFTEN AS THE

1 SECRETARY OF STATE CONSIDERS NECESSARY. MONEY IN THE SECRETARY
2 OF STATE COMPUTERIZATION FUND AT THE CLOSE OF EACH FISCAL YEAR
3 SHALL REMAIN IN THE FUND AND SHALL NOT REVERT TO THE GENERAL
4 FUND.