

Senate Fiscal Agency
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SFA



BILL ANALYSIS

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House Bill 4026 (Substitute S-1 as reported)
Sponsor: Representative Scott Shackleton
House Committee: Constitutional Law and Ethics
Senate Committee: Government Operations

Date Completed: 2-15-00

RATIONALE

Under the Michigan Campaign Finance Act, a committee's statement of organization, and any other statement or report filed under the Act, must be preserved by the filing official (and made available for public inspection) for five years after the committee's dissolution or after the filing occurred, as applicable. (The filing official is either the Secretary of State or a local clerk, as prescribed in the Act for various candidates or campaign committees.) Statements and reports filed under the Act must be destroyed after the five-year preservation period. It has been pointed out that statements and reports filed under the Act contain information regarding contributions to and expenditures by candidates and campaign committees, and that many State and local officials hold elected office for longer than five years. Some people feel that this information should be available to the public for a longer period of time.

CONTENT

The bill would amend the Michigan Campaign Finance Act to extend the time filing officials must keep certain campaign statements and reports, from five years to 15 years; require the preservation, for 15 years, of records regarding violations of the Act; and delete the requirement that records be destroyed after the preservation period.

The bill provides that a statement of organization, or any other statement or report, filed under the Act, that was filed with the Secretary of State would have to be preserved for 15 years from the date of a committee's dissolution (for a statement of organization) or from the date filed (for any other statement or report). A statement of organization, or any other statement or report, filed with a local filing official would have to be preserved for 15 years if filed by a committee that received more than \$50,000 in an election cycle; and preserved for five years if the committee received \$50,000 or less in an election cycle.

The bill provides that upon a determination under Section 15 of the Act that a violation of the Act had occurred, all complaints, orders, decisions, or other documents related to the violation would have to be preserved by the Secretary of State for 15 years from the date of the violation. (Section 15 prescribes the procedures the Secretary of State must follow regarding complaints received alleging violations of the Act, and the actions the Secretary of State may take if violations are determined to have occurred.)

The Act also provides that a statement or report filed by a candidate for an office with a term exceeding four years must be preserved for one year beyond that candidate's term of office. The bill would delete that provision.

Currently, statements and reports filed under the Act must be destroyed after the required preservation period. The bill provides, instead, that after the required preservation period, statements and reports could be disposed of in the manner prescribed in the Management and Budget Act and Public Act 271 of 1913, which prescribes the powers and duties of the Michigan Historical Commission. (Under the Management and Budget Act, the Secretary of State must determine whether records possess archival value; any record considered to have archival value must be retained rather than disposed of as prescribed in the Act. Public Act 271 specifies procedures whereby records placed in the custody of the Michigan Historical Commission may be preserved or destroyed.)

MCL 169.216

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The reporting of information regarding campaign financing and the structure of campaign organizations is required so that the public can discover who gives candidates money and how the money is spent. Timely reporting of, and access to, this information is essential for meaningful disclosure. Under current law, access to campaign finance information is limited because statements and reports must be destroyed after a five-year preservation period. This means that if the media, a member of the public, a constituent, an opponent, or a historian wants to determine the source and extent of an officeholder's financial support, this determination is restricted to relatively recent transactions. It has been reported that of the largest 15 states, only Michigan requires the destruction of campaign finance records. By removing the statutory requirement for the destruction of campaign records after the prescribed preservation period, and leaving their destruction or further preservation to the discretion of the Secretary of State or local filing official, the bill would allow the State and local units to preserve the campaign records of historically important candidates, and would increase the accountability of candidates for elected office, since their campaign records would be available to the public for longer periods of time.

Opposing Argument

The bill falls short of fully protecting public disclosure. By requiring only a five-year preservation period for a committee that received \$50,000 or less in an election cycle, the bill would allow the destruction of essential records.

Response: Under current law all records must be destroyed after five years, so the bill would be a great improvement. Further, the \$50,000 threshold would apply only to local candidates, as all candidates for the Legislature or statewide office must report to the Secretary of State, and these records would have to be kept for at least 15 years. The \$50,000 threshold would mean that, of the reports from the thousands of candidates who run for local office across the State, only a small percentage would have to be retained for the extended time required under the bill. This would prevent imposing an unnecessary burden on local clerks.

Legislative Analyst: G. Towne

FISCAL IMPACT

State and local governments could incur costs due to the storage and retrieval requirements of this bill. Because the costs would depend on the medium of storage and the volume of storage, the fiscal impact of this bill is indeterminate.

Fiscal Analyst: E. Limbs

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.