



**House Bill 4290 (Substitute H-2)
First Analysis (3-19-03)**

**Sponsor: Rep. Larry Julian
Committee: Local Government and
Urban Policy**

THE APPARENT PROBLEM:

Candidates for governor are currently eligible to receive public funding of their campaigns under the Michigan Campaign Finance Act. That act establishes the State Campaign Fund whose money comes from two sources: the “\$3 (or more) check-off” that all income tax filers can designate when they file their tax returns and an appropriation from the general fund that provides a state match of the total funds designated by tax filers. If more than \$10 million accumulates in the fund on December 31 immediately following a gubernatorial election, then the excess reverts to the state’s general fund.

Eligibility to receive money from the State Campaign Fund rests on a candidate’s “qualifying contributions.” Once a threshold in qualifying contributions is surpassed (and the candidate files the name and address of each contributor with the secretary of state) the candidate draws public funds in an amount equal to \$2 for each \$1 of qualifying contribution. To be eligible, a candidate must cross a \$75,000 threshold for the primary election, and he or she cannot receive more than \$900,000 from the fund to cover the costs of the primary election campaign. Then, major political party nominees can receive up to an additional \$1,125,000 for the general election campaign. (Minor party candidates are eligible for reduced funding, depending on their proportional share of the vote in the preceding general election.)

Currently, a candidate accepting public funding must abide by two additional rules. First, the candidate must agree to abide by campaign spending limitations (spend no more than \$2 million in the aggregate for one election) and, second, he or she must agree to spend the money on “qualified campaign expenditures,” and not for purposes expressly prohibited under the law—for example, payments to relatives or business partners, wages to an individual that exceed \$5,000 a month, payments from petty cash, gifts, and payments to a defense fund.

Some states have larger and more comprehensive public financing programs for political campaigns. These programs are often promoted by the League of Women Voters, an organization whose members have championed campaign finance reform for many years. For example, the Leagues in Arizona, Massachusetts, and Maine have supported successful ballot measures to ensure public financing and “clean” elections. In these states, public financing is available to all candidates for statewide office, as well as members of the state House of Representatives and state Senate. In Connecticut, the legislature passed a public financing bill at the League’s urging, only to have the governor veto it. In Minnesota, the League has promoted a “clean money” bill, that would allow candidates partial public funding in exchange for voluntary limits on private fundraising. See *BACKGROUND INFORMATION* below.

None of the public financing laws require that candidates who accept funds also participate in candidate debates and other public forums. However, under some models for reform candidates also would receive a fixed amount of free television time.

Here in Michigan, legislation has been introduced to require gubernatorial candidates who accept public campaign finance contributions to participate in regional debates.

THE CONTENT OF THE BILL:

House Bill 4290 would amend the Michigan Campaign Finance Act to require that candidates who accept public funding participate in public debates.

Under the bill, a candidate who applied for money from the state campaign fund, and whose name was eligible to appear on the primary election ballot, would be required to participate in one or more public debates with all other candidates of the same

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party who applied for money from the fund and whose names are eligible to appear on the primary ballot. Likewise, a candidate who applied for fund money and whose name was eligible to appear on the general election ballot would be required to participate in one or more public debates with all other candidates who applied for fund money and whose names were eligible to appear on the general ballot.

One or more debates would be scheduled and conducted as mutually agreed in writing by all candidates required to participate, and the agreement would have to be filed with the director of elections. The agreement would have to state all of the following details: the number of debates to be held; the date, time, and place of each debate; the name of the moderator of each debate; and the format of each debate. If the agreement was not filed by at least 45 days before the election (primary or general), the Board of State Canvassers would, by at least 38 days before the election, schedule one or more public debates and establish the required details.

A candidate who was not required to participate in a debate even though his or her name was eligible to appear on the ballot for an election for which a public debate was required (i.e., a candidate who did not accept public funding) could participate in a debate if he or she agreed to abide by all of the details of the debate or debates, as agreed to by the candidates or established by the board. The candidate would have to file a statement with the director of elections to that effect.

A candidate who failed to participate in a public debate in which he or she was required to participate would have to return all money that he or she received from the fund for that election unless he or she was unable to participate in a debate because of exigent circumstances agreed to by all required participants or by the board. A candidate would be personally liable for money to be returned under this provision, and would be required to return the money by written instrument within 30 days following the debate in which he or she did not participate.

MCL 169.265a

BACKGROUND INFORMATION:

For more information about the League of Women Voters "clean elections/clean money" campaign efforts nationwide, visit http://www.lwv.org/elibrary/pub/cfr_options1.html

For further information about the most comprehensive public campaign financing program in the nation, that operating in the state of Arizona, visit the web site of the Clean Elections Institute headquartered in Phoenix and funded by a consortium of 13 foundations. Their address is <http://www.azclean.org>

FISCAL IMPLICATIONS:

The House Fiscal Agency notes that the bill does not specify who will pay for the costs of the debates. Currently the State Campaign Fund does not pay the costs of candidate debates. However, under this bill a candidate who does not participate in a public debate will be required to return the amount he or she received from the State Campaign Fund for that election. Unused State Campaign Funds lapse to the general fund. The bill could have a positive revenue impact to the state, due to funds being returned to the State Campaign Fund by candidates not participating in debates. There is no fiscal impact to local units of government. (3-19-03)

ARGUMENTS:

For:

Anyone who runs for public office should be willing to engage in public debates with other candidates. It is crucial for voters to have access to the candidates and hear the way they propose to address the important issues of the campaign. It is particularly fitting that those who benefit from public financing -- the gubernatorial candidates -- be required to participate in public debates. Too often, posturing between the campaigns results in limited, or no, public debates. The bill proposes a reasonable solution by requiring that those who accept public financing participate in at least one debate for the primary and at least one for the general election. It leaves the details to be negotiated between the candidates, but it also requires that such details be agreed to by a date certain, and requires the board of state canvassers to take over that function if the candidates cannot agree.

Response:

Some people would like to see a requirement for more debates, and a requirement that debates occur throughout the state. Further, the bill leaves unresolved several questions. For example, it does not address who would be responsible for paying for any costs associated with the debates, nor does it address what would happen if the board of state canvassers could not agree on the details of the required debates. Some would argue that the board,

equally divided between appointees of the two major political parties, would be no more likely to agree on debate details than would the two major party candidates' campaigns. It would be far more effective to set up a truly nonpartisan debate commission, consisting of, perhaps, representatives of the media, academia, and voter education groups.

POSITIONS:

The Office of the Secretary of State has no position on the bill. (3-18-03)

A representative of the League of Women Voters testified in support of the bill in its original form. (3-11-03)

Analyst: J. Hunault/D. Martens

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.