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BILL ANALYSIS



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House Bill 5085 (Substitute H-1 as reported with amendment)
House Bill 5086 (Substitute H-2 as reported with amendment)
Sponsor: Representative Mike Shirkey (H.B. 5085)
Representative Paul Opsommer
House Committee: Redistricting and Elections
Senate Committee: Local Government and Elections

CONTENT

House Bill 5085 (H-1) would amend Public 390 of 1978, which regulates the payment of wages and fringe benefits, to prohibit a public body from deducting any amount from employees' wages for contributions to a separate segregated fund set up under the Michigan Campaign Finance Act or a contribution or payment to any committee established under the Federal Election Campaign Act for political purposes.

(The Michigan Campaign Finance Act allows corporations, labor organizations, and other entities to make an expenditure for the establishment and administration of, and solicitation of contributions to, a separate segregated fund to be used for political purposes. The fund must be limited to making contributions to, and expenditures on behalf of, candidate committees, ballot question committees, political party committees, political committees, and independent committees.

The Act defines "public body" as the following:

- A State agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of State government.
- The Legislature or an agency, board, commission, or council in the legislative branch.
- A county, city, township, village, intercounty, intercity, or regional governing body; a council, school district, special district, or municipal corporation; or a board, department, commission, or council or an agency of a board, department, commission, or council.
- Any other body that is created by, or is primarily funded by or through, State or local authority, and that exercises governmental or proprietary authority or performs a governmental or proprietary function.)

House Bill 5086 (H-2) would amend the Michigan Campaign Finance Act to do the following:

- Prohibit a public body from using public resources to establish or administer a payroll deduction plan that would collect or deliver contributions to or make expenditures for a committee.
- Allow a person to bring a civil action against a public body that violated this prohibition, if the Secretary of State dismissed a complaint alleging a violation or entered into a conciliation agreement that would not prevent a public body from using public resources in violation of the bill.
- State a policy requiring public bodies to maintain strict neutrality in elections.

The prohibition would be added to Section 57 of the Act. A person who knowingly violates that section is guilty of a misdemeanor. If the violator is an individual, the offense is punishable by a fine of up to \$1,000, imprisonment for up to one year, or both. If the violator is not an individual, the penalty is a maximum fine of \$20,000 or a fine equal to the amount of the improper contribution or expenditure, whichever is greater.

MCL 408.477 (H.B. 5085)
169.204 et al. (H.B. 5086)

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

House Bill 5085 (H-1)

The bill would have an unknown but likely negligible fiscal impact on public bodies. The bill would have no fiscal impact on the Department of State.

House Bill 5086 (H-2)

The bill would have an indeterminate, but likely negligible, fiscal impact on State and local government. By adding to the actions that constitute a misdemeanor under Section 57, the bill could have an impact on local incarceration costs, but the impact would likely be negligible. Any additional penal fine revenue would benefit public libraries.

Because the bill would allow civil actions against public bodies, there are potential indeterminate costs that could be incurred by any public body, State or local, in the event that an action was brought against it. These costs could include legal costs for the public body itself as well as damages, costs, and attorney fees for the complainant if the complainant prevailed in court.

Date Completed: 2-6-12

Fiscal Analyst: Joe Carrasco
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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.