

SENATE BILL No. 571

October 20, 2015, Introduced by Senator KOWALL and referred to the Committee on Elections and Government Reform.

A bill to amend 1976 PA 388, entitled "Michigan campaign finance act," by amending sections 3, 6, and 55 (MCL 169.203, 169.206, and 169.255), section 3 as amended by 2012 PA 273 and sections 6 and 55 as amended by 2013 PA 252.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) "Candidate" means an individual who meets 1 or
2 more of the following criteria:

3 (a) Files a fee, an affidavit of incumbency, or a nominating
4 petition for an elective office.

5 (b) Is nominated as a candidate for elective office by a
6 political party caucus or convention and whose nomination is
7 certified to the appropriate filing official.

8 (c) Receives a contribution, makes an expenditure, or gives
9 consent for another person to receive a contribution or make an

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1 expenditure with a view to bringing about the individual's
2 nomination or election to an elective office, whether or not the
3 specific elective office for which the individual will seek
4 nomination or election is known at the time the contribution is
5 received or the expenditure is made.

6 (d) Is an officeholder who is the subject of a recall vote.

7 (e) Holds an elective office, unless the officeholder is
8 constitutionally or legally barred from seeking reelection or fails
9 to file for reelection to that office by the applicable filing
10 deadline. An individual described in this subdivision is considered
11 to be a candidate for reelection to that same office for the
12 purposes of this act only.

13 For purposes of sections 61 to 71, "candidate" only means, in
14 a primary election, a candidate for the office of governor and, in
15 a general election, a candidate for the office of governor or
16 lieutenant governor. However, the candidates for the office of
17 governor and lieutenant governor of the same political party in a
18 general election shall be considered as 1 candidate.

19 (2) "Candidate committee" means the committee designated in a
20 candidate's filed statement of organization as that individual's
21 candidate committee. A candidate committee shall be under the
22 control and direction of the candidate named in the same statement
23 of organization. Notwithstanding subsection ~~(4)~~, ~~(5)~~, an individual
24 shall form a candidate committee under section 21 if the individual
25 becomes a candidate under subsection (1).

26 (3) "Closing date" means the date through which a campaign
27 statement is required to be complete.

1 (4) "COMMINGLED" MEANS BLENDED TOGETHER SO THAT FUNDS OF A
2 COMMITTEE OR SEPARATE SEGREGATED FUND ARE MIXED WITH FUNDS THAT ARE
3 PROHIBITED FOR USES UNDER THIS ACT. THE TERM DOES NOT INCLUDE
4 EITHER OF THE FOLLOWING:

5 (A) A CONTRIBUTION RECEIVED BY A PERSON FOR TRANSMISSION TO A
6 SEPARATE SEGREGATED FUND AS DESCRIBED IN SECTION 55(7).

7 (B) A CONTRIBUTION TO A COMMITTEE BY 1 OR MORE INDIVIDUALS
8 THROUGH A PERSON IF ALL OF THE FOLLOWING ARE MET:

9 (i) THE INDIVIDUAL OR AGGREGATED CONTRIBUTION IS ACCOMPANIED
10 BY OR LOGICALLY ASSOCIATED WITH ALL INFORMATION REQUIRED UNDER
11 SECTION 26 FOR EACH INDIVIDUAL CONTRIBUTOR.

12 (ii) THE INDIVIDUAL MAKING THE CONTRIBUTION IS THE ORIGINAL
13 SOURCE OF THE CONTRIBUTION.

14 (iii) THE CONTRIBUTION IS NOT OBTAINED THROUGH USE OF COERCION
15 OR PHYSICAL FORCE, AS A CONDITION OF EMPLOYMENT OR MEMBERSHIP, OR
16 BY USING OR THREATENING TO USE JOB DISCRIMINATION OR FINANCIAL
17 REPRISALS.

18 (iv) ONLY THE INDIVIDUAL MAKING THE CONTRIBUTION EXERCISES ANY
19 CONTROL OVER THE CONTRIBUTION.

20 (5) ~~(4)~~—"Committee" means a person who receives contributions
21 or makes expenditures for the purpose of influencing or attempting
22 to influence the action of the voters for or against the nomination
23 or election of a candidate, the qualification, passage, or defeat
24 of a ballot question, or the qualification of a new political
25 party, if contributions received total \$500.00 or more in a
26 calendar year or expenditures made total \$500.00 or more in a
27 calendar year. An individual, other than a candidate, does not

1 constitute a committee. A person, other than a committee registered
2 under this act, making an expenditure to a ballot question
3 committee, shall not, for that reason, be considered a committee
4 for the purposes of this act unless the person solicits or receives
5 contributions for the purpose of making an expenditure to that
6 ballot question committee.

7 (6) "CONNECTED ORGANIZATION" MEANS A CORPORATION ORGANIZED ON
8 A FOR-PROFIT OR NONPROFIT BASIS, A JOINT STOCK COMPANY, A DOMESTIC
9 DEPENDENT SOVEREIGN, OR A LABOR ORGANIZATION FORMED UNDER THE LAWS
10 OF THIS OR ANOTHER STATE OR FOREIGN COUNTRY, THAT FORMS A SEPARATE
11 SEGREGATED FUND AS PROVIDED IN SECTION 55.

12 Sec. 6. (1) "Expenditure" means a payment, donation, loan, or
13 promise of payment of money or anything of ascertainable monetary
14 value for goods, materials, services, or facilities in assistance
15 of, or in opposition to, the nomination or election of a candidate,
16 the qualification, passage, or defeat of a ballot question, or the
17 qualification of a new political party. Expenditure includes, but
18 is not limited to, any of the following:

19 (a) A contribution or a transfer of anything of ascertainable
20 monetary value for purposes of influencing the nomination or
21 election of a candidate, the qualification, passage, or defeat of a
22 ballot question, or the qualification of a new political party.

23 (b) Except as provided in subsection (2)(f) or (g), an
24 expenditure for voter registration or get-out-the-vote activities
25 made by a person who sponsors or finances the activity or who is
26 identified by name with the activity.

27 (c) Except as provided in subsection (2)(f) or (g), an

1 expenditure made for poll watchers, challengers, distribution of
2 election day literature, canvassing of voters to get out the vote,
3 or transporting voters to the polls.

4 (d) Except as provided in subsection (2)(c), the cost of
5 establishing and administering a payroll deduction plan to collect
6 and deliver a contribution to a committee.

7 (2) Expenditure does not include any of the following:

8 (a) An expenditure for communication by a person with the
9 person's paid members or shareholders and those individuals who can
10 be solicited for contributions to a separate segregated fund under
11 section 55.

12 (b) An expenditure for communication on a subject or issue if
13 the communication does not support or oppose a ballot question or
14 candidate by name or clear inference.

15 (c) An expenditure for the establishment, administration, or
16 solicitation of contributions to a separate segregated fund if that
17 expenditure was made by the person who established the separate
18 segregated fund as authorized under section 55, **OR MADE BY A PERSON**
19 **WHO IS A MEMBER OF A NONPROFIT CORPORATION THAT ESTABLISHED THE**
20 **SEPARATE SEGREGATED FUND AS AUTHORIZED UNDER SECTION 55.**

21 (d) An expenditure by a broadcasting station, newspaper,
22 magazine, or other periodical or publication for a news story,
23 commentary, or editorial in support of or opposition to a candidate
24 for elective office or a ballot question in the regular course of
25 publication or broadcasting.

26 (e) An offer or tender of an expenditure if expressly and
27 unconditionally rejected or returned.

1 (f) An expenditure for nonpartisan voter registration or
2 nonpartisan get-out-the-vote activities made by an organization
3 that is exempt from federal income tax under section 501(c)(3) of
4 the internal revenue code, ~~of 1986,~~ 26 USC 501, or any successor
5 statute.

6 (g) An expenditure for nonpartisan voter registration or
7 nonpartisan get-out-the-vote activities performed under chapter
8 XXIII of the Michigan election law, 1954 PA 116, MCL 168.491 to
9 168.524, by the secretary of state and other registration officials
10 who are identified by name with the activity.

11 (h) An expenditure by a state central committee of a political
12 party or a person controlled by a state central committee of a
13 political party for the construction, purchase, or renovation of 1
14 or more office facilities in Ingham county if the facility is not
15 constructed, purchased, or renovated for the purpose of influencing
16 the election of a candidate in a particular election. Items
17 excluded from the definition of expenditure under this subdivision
18 include expenditures approved in federal election commission
19 advisory opinions 1993-9, 2001-1, and 2001-12 as allowable
20 expenditures under the federal election campaign act of 1971,
21 Public Law 92-225, ~~2 USC 431 to 457,~~ **52 USC 30101 TO 30146**, and
22 regulations promulgated under that act, regardless of whether those
23 advisory opinions have been superseded.

24 (i) Except only for the purposes of section 57, an expenditure
25 to or for a federal candidate or a federal committee.

26 (j) Except only for the purposes of section 47, an expenditure
27 for a communication if the communication does not in express terms

1 advocate the election or defeat of a clearly identified candidate
2 so as to restrict the application of this act to communications
3 containing express words of advocacy of election or defeat, such as
4 "vote for", "elect", "support", "cast your ballot for", "Smith for
5 governor", "vote against", "defeat", or "reject".

6 Sec. 55. (1) A corporation organized on a ~~for-profit~~ **FOR-**
7 **PROFIT** or nonprofit basis, a joint stock company, a domestic
8 dependent sovereign, or a labor organization formed under the laws
9 of this or another state or foreign country may make an expenditure
10 for the establishment and administration and solicitation of
11 contributions to a separate segregated fund to be used for
12 political purposes. A separate segregated fund established under
13 this section ~~shall be~~ **IS** limited to making contributions to, and
14 expenditures on behalf of, candidate committees, ballot question
15 committees, political party committees, political committees,
16 independent committees, and other separate segregated funds.

17 (2) Contributions for a separate segregated fund established
18 by a corporation, organized on a ~~for-profit~~ **FOR-PROFIT** basis, or a
19 joint stock company under this section may be solicited from any of
20 the following persons or their spouses:

21 (a) Stockholders of the corporation or company.

22 (b) Officers and directors of the corporation or company.

23 (c) Employees of the corporation or company who have policy
24 making, managerial, professional, supervisory, or administrative
25 nonclerical responsibilities.

26 (3) Contributions for a separate segregated fund established
27 under this section by a corporation organized on a nonprofit basis

1 may be solicited from any of the following persons or their
2 spouses:

3 (a) Members of the corporation who are individuals.

4 (b) Stockholders or members of members of the corporation.

5 (c) Officers or directors of members of the corporation.

6 (d) Employees of the members of the corporation who have
7 policy making, managerial, professional, supervisory, or
8 administrative nonclerical responsibilities.

9 (e) Employees of the corporation who have policy making,
10 managerial, professional, supervisory, or administrative
11 nonclerical responsibilities.

12 (4) Contributions for a separate segregated fund established
13 under this section by a labor organization may be solicited from
14 any of the following persons or their spouses:

15 (a) Members of the labor organization who are individuals.

16 (b) Officers or directors of the labor organization.

17 (c) Employees of the labor organization who have policy
18 making, managerial, professional, supervisory, or administrative
19 nonclerical responsibilities.

20 (5) Contributions for a separate segregated fund established
21 under this section by a domestic dependent sovereign may be
22 solicited from an individual who is a member of any domestic
23 dependent sovereign.

24 (6) Contributions shall not be obtained for a separate
25 segregated fund established under this section by use of coercion
26 or physical force, by making a contribution a condition of
27 employment or membership, or by using or threatening to use job

1 discrimination or financial reprisals. A ~~corporation organized on a~~
2 ~~for profit or nonprofit basis, a joint stock company, a domestic~~
3 ~~dependent sovereign, or a labor~~ **CONNECTED** organization shall not
4 solicit or obtain contributions for a separate segregated fund
5 established under this section from an individual described in
6 subsection (2), (3), (4), or (5) on an automatic or passive basis
7 including but not limited to a payroll deduction plan or reverse
8 checkoff method. A ~~corporation organized on a for profit or~~
9 ~~nonprofit basis, a joint stock company, a domestic dependent~~
10 ~~sovereign, or a labor~~ **CONNECTED** organization may solicit or obtain
11 contributions for a separate segregated fund established under this
12 section from an individual described in subsection (2), (3), (4),
13 or (5) on an automatic basis, including but not limited to a
14 payroll deduction plan, only if the individual who is contributing
15 to the fund affirmatively consents to the contribution. ~~at least~~
16 ~~once in every calendar year.~~

17 (7) CONTRIBUTIONS TO A SEPARATE SEGREGATED FUND THAT ARE
18 ALLOWED UNDER THIS SECTION MAY BE COLLECTED BY OR MADE PAYABLE
19 FIRST TO THE CONNECTED ORGANIZATION THAT ESTABLISHED THE SEPARATE
20 SEGREGATED FUND UNDER THIS SECTION, OR ITS MEMBER OR AGENT, FOR
21 SUBSEQUENT TRANSMISSION TO THE SEPARATE SEGREGATED FUND. ANY SUCH
22 CONTRIBUTIONS ARE NOT CONSIDERED UNDER THIS ACT TO BE COMMINGLED
23 WITH OTHER FUNDS OF THE CONNECTED ORGANIZATION OR ITS MEMBER OR
24 AGENT, EVEN IF DEPOSITED FIRST INTO GENERAL TREASURY FUNDS, IF ALL
25 OF THE FOLLOWING OCCUR:

26 (A) THE INDIVIDUAL MAKING THE CONTRIBUTION DOES EITHER OF THE
27 FOLLOWING:

1 (i) SPECIFICALLY INDICATES IN A RECORD OR ELECTRONIC RECORD
2 THAT THE TOTAL AMOUNT, OR A SPECIFIED PORTION OF THE TOTAL AMOUNT
3 IF REMITTED AS PART OF A DUES OR OTHER PAYMENT TO THE CONNECTED
4 ORGANIZATION OR ITS MEMBER OR AGENT, IS A CONTRIBUTION TO THE
5 SEPARATE SEGREGATED FUND.

6 (ii) FAILS TO RETURN A RECORD OR ELECTRONIC RECORD DESCRIBED
7 IN SUBPARAGRAPH (i), BUT REMITS A WRITTEN INSTRUMENT FOR PAYMENT TO
8 THE CONNECTED ORGANIZATION OR ITS MEMBER OR AGENT IN RESPONSE TO A
9 SPECIFICALLY REQUESTED AMOUNT THAT INCLUDES A SOLICITED
10 CONTRIBUTION, THE SOLICITATION FOR A CONTRIBUTION WAS CLEARLY
11 DISTINGUISHABLE FROM ANY DUES OR OTHER FEES REQUESTED AS PART OF
12 THE TOTAL, AND THE CONNECTED ORGANIZATION OR ITS MEMBER OR AGENT
13 MAINTAINS A RECORD OR ELECTRONIC RECORD OF THE SOLICITATION THAT
14 INCLUDES THE AMOUNT OF THE SOLICITED CONTRIBUTION AND THE AMOUNT OF
15 ANY DUES OR OTHER FEES CHARGED IN CONJUNCTION WITH THE SOLICITATION
16 FOR EACH CONTRIBUTOR.

17 (B) THE CONNECTED ORGANIZATION OR ITS MEMBER OR AGENT
18 TRANSMITS THE ENTIRE SPECIFIED AMOUNT OF THE CONTRIBUTION,
19 INDIVIDUALLY OR AGGREGATED WITH OTHER LAWFUL CONTRIBUTIONS, TO THE
20 SEPARATE SEGREGATED FUND ELECTRONICALLY OR BY WRITTEN INSTRUMENT.

21 (C) ALL TRANSMISSIONS OF CONTRIBUTIONS TO THE SEPARATE
22 SEGREGATED FUND BY THE CONNECTED ORGANIZATION OR ITS MEMBER OR
23 AGENT ARE ACCOMPANIED BY OR LOGICALLY ASSOCIATED WITH A RECORD OR
24 ELECTRONIC RECORD SETTING FORTH ALL INFORMATION REQUIRED UNDER
25 SECTION 26 FOR EACH INDIVIDUAL CONTRIBUTOR WHOSE CONTRIBUTION IS
26 TRANSMITTED.

27 (D) THE CONNECTED ORGANIZATION OR ITS MEMBER OR AGENT THAT

1 RECEIVES CONTRIBUTIONS FOR TRANSMISSION TO THE SEPARATE SEGREGATED
2 FUND INTERNALLY ACCOUNTS FOR THE CONTRIBUTIONS IN A MANNER THAT
3 DISTINGUISHES THOSE CONTRIBUTIONS FROM GENERAL TREASURY FUNDS, AND
4 DOCUMENTS THE IDENTITY OF THE INDIVIDUAL CONTRIBUTOR, THE METHOD OF
5 RECEIPT FOR EACH CONTRIBUTION, AND THE DATE AND AMOUNT OF ALL
6 INDIVIDUAL CONTRIBUTIONS AND ALL TRANSMISSIONS TO THE SEPARATE
7 SEGREGATED FUND.

8 (8) ANY COST ATTRIBUTABLE TO AN ACTIVITY UNDER SUBSECTION (7)
9 INCURRED BY THE CONNECTED ORGANIZATION OR ITS MEMBER OR AGENT IS
10 CONSIDERED AN EXPENDITURE FOR THE ADMINISTRATION OF A SEPARATE
11 SEGREGATED FUND BY THE CONNECTED ORGANIZATION ALLOWED UNDER
12 SUBSECTION (1).

13 (9) ~~(7)~~—A person who knowingly violates this section is guilty
14 of a felony punishable, if the person is an individual, by a fine
15 of not more than \$5,000.00 or imprisonment for not more than 3
16 years, or both, or, if the person is not an individual, by a fine
17 of not more than \$10,000.00.

18 (10) ~~(8)~~—If a ~~corporation, joint stock company, domestic~~
19 ~~dependent sovereign, or labor~~ **CONNECTED** organization that obtains
20 contributions for a separate segregated fund from individuals
21 described in subsection (2), (3), (4), or (5) pays to 1 or more of
22 those individuals a bonus or other remuneration for the purpose of
23 reimbursing those contributions, then that ~~corporation, joint stock~~
24 ~~company, domestic dependent sovereign, or labor~~ **CONNECTED**
25 organization is subject to a civil fine equal to 2 times the total
26 contributions obtained from all individuals for the separate
27 segregated fund during that calendar year.

1 (11) AS USED IN THIS SECTION, "RECORD" AND "ELECTRONIC RECORD"
2 MEAN THOSE TERMS AS DEFINED IN SECTION 2 OF THE UNIFORM ELECTRONIC
3 TRANSACTIONS ACT, 2000 PA 305, MCL 450.832.