



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 335 (Substitute S-3 as reported by the Committee of the Whole)
Senate Bill 336 (as reported without amendment)
Sponsor: Senator Dave Robertson
Committee: Elections and Government Reform

CONTENT

Senate Bill 335 (S-3) would amend the Michigan Campaign Finance Act to do the following:

- Permit the creation of independent expenditure committees.
- Redefine "independent expenditure" (as described below).
- Allow an independent expenditure committee to make contributions to another independent expenditure committee or to a ballot question committee, in addition to any independent expenditures or other disbursements not prohibited by law.
- Provide that a political committee organized for the purpose of making independent expenditures formed before the bill's effective date would be considered an independent expenditure committee.
- Prohibit an independent expenditure committee from making a contribution to a candidate committee, independent committee, political committee, political party committee, or House or Senate political party caucus committee.
- Prescribe a felony penalty for an individual who knowingly violated that prohibition or a fine for a person other than an individual that violated it.
- Prescribe penalties that would apply if the independent nature of an independent expenditure were defeated.
- Provide that the independent nature of an independent expenditure would not be defeated under circumstances in which a person making an independent expenditure related to ballot question committee, candidate, candidate committee, or political party committee had an attorney, vendor, or other agent in common with the candidate or committee, or a candidate or committee solicited contributions on behalf of an independent expenditure committee.
- Require an independent expenditure committee to file campaign statements according to a schedule that applies to an independent committee.
- Prescribe late filing fees and a misdemeanor penalty for failing to report an independent expenditure as required.
- Allow a corporation, labor organization, joint stock company, or domestic dependent sovereign to make a contribution to an independent expenditure committee.
- Provide that a corporation, labor organization, joint stock company, or domestic dependent sovereign could make an independent expenditure in any amount advocating the election or defeat of a candidate or the passage or defeat of a ballot question, and would not become a committee unless it solicited or received contributions in excess of \$500 to make the independent expenditure.
- Provide that such entity would be subject to the independent expenditure reporting requirements.
- Require a separate segregated fund established by a connected organization to be organized as a political committee or an independent committee, and permit it to contribute to independent expenditure committees.

- Prohibit a member of a connected organization from maintaining its own separate segregated fund unless that fund and the fund of the other entity were treated as a single independent committee.
- Allow a committee, except as restricted or prohibited by law, to make other lawful disbursements (in addition to expenditures currently permitted), and require a committee's campaign statement to include information about disbursements.
- Prohibit a candidate committee from making an expenditure or disbursement except to further the nomination or election of the candidate for which it was formed, except as otherwise provided in the Act.

The Act defines "independent expenditure" as an expenditure by a person if the expenditure is not made at the direction of, or under the control of, another person and if the expenditure is not a contribution to a committee. The bill would define the term, instead, as an expenditure by a person if the expenditure is not made in cooperation, consultation, or concert with, or at the request or suggestion of, a ballot question committee or a candidate, a candidate committee or its agents, or a political party committee or its agents and if the expenditure is not a contribution to a committee.

Senate Bill 336 would the Code of Criminal Procedure to include the felony established by Senate Bill 335 (S-3) (regarding a prohibited contribution by an independent expenditure committee) in the sentencing guidelines as a Class H offense against the public trust with a statutory maximum of three years' imprisonment.

MCL 169.203 et al. (S.B. 335)
777.11e (S.B. 336)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

Senate Bill 335 (S-3) would have an indeterminate impact on State and local government. It is unknown whether the provisions in the bill would lead to more or fewer violations of the Act. More misdemeanor and felony arrests and convictions could increase resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities. The average cost to State government for felony probation supervision is approximately \$3,024 per probationer per year. For any increase in prison intakes, in the short term, the marginal cost to State government would be approximately \$3,764 per prisoner per year. Any associated increase in fine revenue would increase funding to public libraries.

The bill also would have a minimal, indeterminate impact on the Department of State regarding the administration of reporting requirements. The late filing fees proposed by the bill also could generate revenue to the State or local units. As a rule, under the Act, late filing fees are payable to the filing official with whom a statement or report is required to be filed.

Senate Bill 336 would have no fiscal impact on local government and an indeterminate fiscal impact on the State. According to the Michigan Supreme Court's July 2015 opinion in *People v. Lockridge*, the sentencing guidelines are advisory for all cases. This means that the addition to the guidelines under the bill would not be compulsory for the sentencing judge. As penalties for felony convictions vary, the fiscal impact of any given felony conviction depends on judicial decisions.

Date Completed: 9-6-17

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Bill Analysis @ www.senate.michigan.gov/sfa

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.