

HOUSE BILL NO. 5070

September 28, 2023, Introduced by Reps. Schuette, Hoadley, Thompson, Alexander, Bierlein, Meerman, DeBoyer, Maddock, Bruck, Johnsen, Smit, Fink, Jaime Greene, Markkanen, Cavitt, Rigas, Schmaltz and Kunse and referred to the Committee on Government Operations.

A bill to prohibit public bodies from receiving gifts and grants from foreign actors under certain circumstances; to prohibit public bodies from entering into agreements with foreign actors under certain circumstances; to establish disclosure requirements for certain gifts, grants, contracts, and other interests relating to certain foreign actors; to prescribe civil sanctions; to provide for the powers and duties of certain state and local governmental officers and entities; and to require the promulgation of rules.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "foreign influence of

1 public bodies act".

2 Sec. 3. As used in this act:

3 (a) "Contract" means an agreement for the direct benefit or
4 use of a party to the agreement, including, but not limited to, an
5 agreement for the sale of commodities or services.

6 (b) "Foreign country of concern" means any of the following:

7 (i) The People's Republic of China.

8 (ii) The Russian Federation.

9 (iii) The Islamic Republic of Iran.

10 (iv) The Democratic People's Republic of Korea.

11 (v) The Republic of Cuba.

12 (vi) The Venezuelan regime of Nicolás Maduro.

13 (vii) The Syrian Arab Republic.

14 (viii) An agency or other entity under significant control of a
15 country described in subparagraphs (i) to (vii).

16 (c) "Foreign government" means the government of a country,
17 nation, or group of nations, or a province or other political
18 subdivision of a country or nation. Foreign government includes an
19 agent of a country or nation. Foreign government does not include
20 the government of the United States or the government of a state or
21 political subdivision of the United States.

22 (d) "Foreign source" means any of the following:

23 (i) A foreign government or an agency of a foreign government.

24 (ii) A governmental or nongovernmental entity created solely
25 under the laws of a foreign state or foreign states.

26 (iii) An individual who is not a citizen or national of the
27 United States or a territory or protectorate of the United States.

28 (iv) An agent acting on behalf of a person described in

1 subparagraphs (i) to (iii).

2 (e) "Gift" means a transfer of money or property from 1 entity
3 to another without compensation.

4 (f) "Grant" means a transfer of money for a specified purpose,
5 including, but not limited to, a conditional gift.

6 (g) "Interest" means a direct or indirect investment in, or
7 loan to, an entity that is valued at not less than 5% of the
8 entity's net worth or a form of direct or indirect control exerting
9 similar or greater influence on the governance of the entity.

10 (h) "Public body" means a department, board, commission,
11 office, agency, authority, or other unit of state or local
12 government. Public body does not include a public school or state
13 institution of higher education.

14 (i) "Public school" means that term as defined in section 5 of
15 the revised school code, 1976 PA 451, MCL 380.5.

16 (j) "State institution of higher education" means a public
17 community or junior college established under section 7 of article
18 VIII of the state constitution of 1963 or part 25 of the revised
19 school code, 1976 PA 451, MCL 380.1601 to 380.1607, or a state
20 university described in section 4, 5, or 6 of article VIII of the
21 state constitution of 1963.

22 Sec. 5. A public body may not participate in an agreement with
23 or accept a grant from a foreign country of concern, if the
24 agreement or grant does any of the following:

25 (a) Constrains the public body's freedom to contract.

26 (b) Allows the values of a program in this state to be
27 directed or controlled by the foreign country of concern.

28 (c) Promotes an agenda that is detrimental to the safety and
29 security of the United States or its residents.

1 Sec. 7. (1) Except as otherwise provided in subsection (2),
2 before a public body executes a cultural exchange agreement with a
3 foreign country of concern, the substance of the agreement must be
4 shared with a federal agency concerned with protecting national
5 security or enforcing trade sanctions, embargoes, or other
6 restrictions under federal law.

7 (2) If the federal agency reviewing the cultural exchange
8 agreement under subsection (1) suggests that the agreement promotes
9 an agenda that is detrimental to the safety and security of the
10 United States or its residents, the public body may not enter into
11 the agreement.

12 Sec. 9. A public body may not accept anything of value that is
13 conditioned on the participation in a program or other endeavor to
14 promote the language or culture of a foreign country of concern.

15 Sec. 11. (1) A public body that receives, directly or
16 indirectly, a gift or grant with a value of \$50,000.00 or more from
17 a foreign source shall submit a disclosure concerning the gift or
18 grant to the department of insurance and financial services not
19 later than 30 days after receiving the gift or grant.

20 (2) The disclosure described in subsection (1) must include
21 all of the following:

22 (a) The date that the public body received the gift or grant.

23 (b) The value of the gift or grant.

24 (c) The name of the foreign source.

25 (d) The country of residence or domicile of the foreign
26 source.

27 (3) The information disclosed under this section is not
28 confidential or exempt from the freedom of information act, 1976 PA
29 442, MCL 15.231 to 15.246.

1 Sec. 13. (1) Subject to subsection (5), a designated person
2 that applies to a public body for a grant or contract with a value
3 of \$100,000.00 or more shall submit a disclosure concerning the
4 designated person to the public body.

5 (2) Subject to subsection (5), not earlier than 1 year before
6 a designated person applies to a public body for a grant or
7 contract with a value of \$100,000.00 or more, the designated person
8 shall submit a copy of the disclosure described in subsection (1)
9 to the department of insurance and financial services.

10 (3) If at any time between the submission of a disclosure
11 under subsection (1) and the award of the grant or contract subject
12 to the disclosure there is a change to the information in the
13 disclosure, the designated person must, not later than 30 days
14 after the change, amend the disclosure under subsection (1) and
15 submit a copy of the amended disclosure to the department of
16 insurance and financial services under subsection (2).

17 (4) The disclosure described in subsection (1) must include
18 all of the following:

19 (a) The name and mailing address of the designated person.

20 (b) The value of the interest, contract, gift, or grant
21 qualifying the person as a designated person.

22 (c) The foreign country of concern relevant to the interest,
23 contract, gift, or grant described in subdivision (b).

24 (d) The date of termination of the interest or contract
25 described in subdivision (b), or the date that the designated
26 person received the gift or grant described in subdivision (b).

27 (5) A disclosure submitted through the online system described
28 in section 15 complies with subsections (1) and (2).

29 (6) The information disclosed under this section is not

1 confidential or exempt from the freedom of information act, 1976 PA
2 442, MCL 15.231 to 15.246.

3 (7) As used in this section, "designated person" means any of
4 the following:

5 (a) A person that has a current interest in or contract with a
6 foreign country of concern that is valued at \$50,000.00 or more.

7 (b) A person that had an interest in or contract with a
8 foreign country of concern that was valued at \$50,000.00 or more
9 and was terminated within the previous 5 years.

10 (c) A person that received a grant or gift from a foreign
11 country of concern that was valued at \$50,000.00 at the time of
12 receipt and was received within the previous 5 years.

13 Sec. 15. (1) The department of insurance and financial
14 services shall establish and maintain a website that publishes the
15 disclosures described in sections 11 and 13.

16 (2) The department of insurance and financial services may
17 establish an online system for submitting the disclosures described
18 in sections 11 and 13.

19 Sec. 17. (1) At least once every 5 years, the department of
20 technology, management, and budget shall screen each person that a
21 public body awarded a grant or contract with a value of \$100,000.00
22 or more in the previous 5 years.

23 (2) The screening described in subsection (1) must be
24 conducted through a federal agency that is responsible for
25 identifying persons that are subject to trade sanctions, embargoes,
26 or other restrictions under federal law.

27 (3) If a screening described in subsection (1) identifies a
28 person as being subject to a sanction, embargo, or other
29 restriction under federal law, the department of technology,

1 management, and budget must notify the person of the screening
2 results and the person must comply with the disclosure requirements
3 described in section 13 until the expiration of the sanction,
4 embargo, or restriction.

5 Sec. 19. (1) If the department of insurance and financial
6 services receives a referral from a compliance officer of a public
7 body that alleges a violation of sections 11 to 17, or the
8 department of insurance and financial services receives a sworn
9 complaint from a person that is based on substantive information
10 and reasonable belief alleging a violation of sections 11 to 17,
11 the department of insurance and financial services must investigate
12 the alleged violation.

13 (2) The department of insurance and financial services may
14 request records that are relevant to a reasonable suspicion of a
15 violation of sections 11 to 17.

16 (3) If the department of insurance and financial services
17 requests records under subsection (2), the subject of the request
18 must provide the records not later than 30 days after receiving the
19 request, or at a later time that is agreed to by the parties.

20 Sec. 21. (1) A person that violates the disclosure
21 requirements under section 11, 13, or 17 or violates section 19 by
22 failing to produce records may be ordered to pay a civil fine in
23 any of the following amounts:

24 (a) For the first violation, \$5,000.00.

25 (b) For the second or any subsequent violation, \$10,000.00.

26 (2) A violation described in subsection (1) may be prosecuted
27 by the prosecutor of the county in which the violation occurred or
28 by the attorney general.

29 (3) A person that is subject to a third violation described in

1 subsection (1) is ineligible for the award of a contract by a
2 public body, unless the ineligibility is lifted for good cause by
3 the department of technology, management, and budget.

4 (4) The department of technology, management, and budget shall
5 maintain a list of people that are ineligible for the award of a
6 contract under subsection (3).

7 Sec. 23. The department of insurance and financial services
8 and the department of technology, management, and budget may
9 promulgate rules to implement this act under the administrative
10 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.