

SENATE BILL NO. 614

October 24, 2023, Introduced by Senators SINGH, NESBITT, BRINKS, HUIZENGA, MOSS, MCBROOM, MCDONALD RIVET and CAVANAGH and referred to the Committee on Oversight.

A bill to require certain candidates for state elective office to file financial disclosure reports; to create a financial disclosure form; to prescribe penalties and civil sanctions; and to provide for the powers and duties of certain state and local governmental officers and entities.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "candidate for office
2 financial disclosure act".

3 Sec. 3. As used in this act:

4 (a) "Candidate" means that term as defined in section 3 of the

1 Michigan campaign finance act, 1976 PA 388, MCL 169.203.

2 (b) "Candidate for office" means a candidate for any of the
3 following offices who is subject to the Michigan campaign finance
4 act, 1976 PA 388, MCL 169.201 to 169.282, and whose candidate
5 committee received or expended more than \$1,000.00 during the
6 election cycle:

7 (i) Governor.

8 (ii) Lieutenant governor.

9 (iii) Secretary of state.

10 (iv) Attorney general.

11 (v) State representative.

12 (vi) State senator.

13 (c) "Department" means the department of state.

14 (d) "Earned income" means salaries, wages, tips, bonuses,
15 commissions, or other compensation or earnings from employment
16 earned during the reporting period.

17 (e) "Form" means the financial disclosure form created by the
18 department in accordance with section 11.

19 (f) "Gift" means that term as defined in section 7 of the
20 Michigan campaign finance act, 1976 PA 388, MCL 169.207.

21 (g) "Honorarium" means that term as defined in section 7 of
22 the Michigan campaign finance act, 1976 PA 388, MCL 169.207.

23 (h) "Liabilities" means what a person owes to another person,
24 including, but not limited to, mortgages or other debts. For
25 purposes of this act, a debt does not include a revolving debt, an
26 unsecured debt that is from a financial institution or the federal
27 government, or a debt owed by a business entity.

28 (i) "Report" means the financial disclosure report required
29 under section 10 of article IV of the state constitution of 1963.

1 (j) "Reporting period" means the preceding calendar year.

2 (k) "Spouse" means an individual who is lawfully married to a
3 candidate for office as described under 26 CFR 30.7701-18.

4 (l) "Unearned income" means income that is not earned from
5 employment, including, but not limited to, financial prize,
6 unemployment benefits, annuities, stock dividends, deferred
7 compensation, pension, profit sharing, or retirement income.
8 Unearned income does not include inheritance money or a familial
9 gift.

10 Sec. 5. (1) A candidate for office shall file an annual
11 financial disclosure report with the department.

12 (2) The report required under this section must first be filed
13 by May 15, 2024, and by May 15 of each year thereafter, or if the
14 candidate for office files a statement of organization for that
15 candidate's candidate committee after May 15 in order to be
16 nominated by a political party at the political party's nominating
17 convention, the report required to be filed under this subsection
18 must be filed no later than 30 days after that candidate files the
19 statement of organization for that candidate's candidate committee.

20 (3) If a candidate for office who is required to file a report
21 under this act receives notice from the secretary of state under
22 section 13(1)(g), the candidate for office shall, within 9 business
23 days after receiving the notice, file corrections to the errors or
24 omissions or file the report, as applicable.

25 Sec. 7. (1) A report required under section 5 must include a
26 complete statement of all of the following:

27 (a) The full name, mailing address, telephone number, and
28 email address of the candidate for office.

29 (b) The name and address of the employer of the candidate for

1 office and the positions held during the reporting period, if the
2 candidate for office receives \$1,000.00 or more in annual income
3 from each position.

4 (c) The name of the spouse of the candidate for office and the
5 occupation of the spouse of the candidate for office.

6 (d) A list of all positions currently held as an officer,
7 director, trustee, partner, proprietor, representative, employee,
8 or consultant of any organization, corporation, firm, partnership,
9 or other business enterprise, nonprofit organization, labor
10 organization, or educational or other institution other than this
11 state. If this subdivision applies, the candidate for office shall
12 include the name of the organization. For purposes of this
13 subdivision, positions held in any religious, social, fraternal, or
14 political entity, or positions that are solely of an honorary
15 nature, are excluded.

16 (e) The source of earned income received during the reporting
17 period by the candidate for office. For purposes of this
18 subdivision, the candidate for office must report each source of
19 income received during the reporting period that is \$1,000.00 or
20 more.

21 (f) Except as otherwise provided in this subdivision, a list
22 of each asset, excluding a business asset, held for investment or
23 production of income with a fair market value of \$1,000.00 or more
24 during the reporting period and any sources of unearned income that
25 exceed \$200.00 during the reporting period. The fair market value
26 for the purpose of listing each asset, excluding a business asset,
27 held for investment or production of income under this subdivision
28 must be adjusted for inflation every 4 years using the Detroit
29 Consumer Price Index, and rounded up to the nearest \$1,000.00.

1 (g) A list of all liabilities that exceed \$10,000.00 owed by
2 the candidate for office to a creditor at any time during the
3 reporting period.

4 (h) Except as otherwise provided in this subdivision, a list
5 of any stocks, bonds, or other forms of securities held by the
6 candidate for office or held jointly with the spouse of the
7 candidate for office during the reporting period, if the security
8 has a total aggregate fair market value of \$1,000.00 or more. The
9 fair market value for the purpose of listing stocks, bonds, or
10 other forms of securities under this subdivision must be adjusted
11 for inflation every 4 years using the Detroit Consumer Price Index,
12 and rounded up to the nearest \$1,000.00. For purposes of this act,
13 a candidate for office is not required to disclose a stock in a
14 widely held investment fund, including, but not limited to, a
15 mutual fund, regulated investment company, pension or deferred
16 compensation plan, or other investment fund, if both of the
17 following apply:

18 (i) Either the fund is publicly traded or the assets of the
19 fund are widely diversified.

20 (ii) The candidate for office or the candidate for office's
21 spouse does not exercise control over or have the ability to
22 exercise control over the financial interests held by the fund.

23 (i) A list of any real property in which the candidate for
24 office holds an ownership or other financial interest. For purposes
25 of this subdivision, the candidate for office is required to
26 include a real property in the report only if that real property
27 has a fair market value of \$1,000.00 or more during the reporting
28 period. A candidate for office filing a report may exclude the
29 street number of a parcel of real property under this subdivision.

1 (j) The date, identity of parties to, and general terms of any
2 agreements or arrangements with respect to future employment, a
3 leave of absence while a candidate for office, continuation or
4 deferral of payments by a former or current employer other than
5 this state, or continuing participation in an employee welfare or
6 benefit plan maintained by a former employer.

7 (2) A candidate for office is not required to disclose the
8 value of any real property or property disclosed under subsection
9 (1).

10 (3) A report required under section 5 must include the
11 following certification: "I certify that the statements I have made
12 on this financial disclosure form are true, complete, and correct
13 to the best of my knowledge and belief, and that I have not moved
14 assets during the reporting period for the purpose of avoiding
15 disclosure under the candidate for office financial disclosure
16 act."

17 Sec. 9. A candidate for office filing a report under section 5
18 may omit any of the following:

19 (a) Information an individual is required to report under the
20 Michigan campaign finance act, 1976 PA 388, MCL 169.201 to 169.282.

21 (b) An item otherwise required to be reported under section
22 7(1)(h) or (i) if all of the following apply:

23 (i) The item represents the exclusive financial interest and
24 responsibility of the spouse of the candidate for office about
25 which the candidate for office does not have control.

26 (ii) The item is not in any way derived from the income,
27 assets, or activities of the candidate for office.

28 (iii) The candidate for office does not derive, or expect to
29 derive, financial benefit from the item.

1 (c) An item that concerns a spouse who is living separate and
2 apart from the candidate for office with the intention of
3 terminating the marriage or maintaining a legal separation.

4 (d) An item that concerns income of the candidate for office
5 arising from dissolution of the candidate for office's marriage or
6 a permanent legal separation from the spouse of the candidate for
7 office.

8 Sec. 11. (1) Within 30 days after the effective date of this
9 act, the department shall create a standard financial disclosure
10 form that incorporates the requirements of section 7 for use by a
11 candidate for office to file the financial disclosure report
12 required under this act.

13 (2) The department shall make the form easily accessible on
14 its website within 30 days after creating the form.

15 Sec. 13. (1) The secretary of state shall do all of the
16 following:

17 (a) Make available through the secretary of state's offices
18 appropriate forms, instructions, and manuals required by this act.

19 (b) Create and operate an electronic, internet-accessible
20 system to receive all statements and reports required by this act
21 to be filed with the secretary of state.

22 (c) Create all forms, instructions, and manuals required under
23 this act.

24 (d) Issue declaratory rulings to implement this act under the
25 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
26 24.328.

27 (e) On receiving a written request and the required filing,
28 waive payment of a late filing fee if the request for the waiver is
29 based on good cause and accompanied by adequate documentation. One

1 or more of the following reasons constitute good cause for a late
2 filing fee waiver:

3 (i) The incapacitating physical illness, hospitalization,
4 accident involvement, death, or incapacitation for medical reasons
5 of a candidate for office or an individual whose participation is
6 essential to the preparation of the report.

7 (ii) Other unique, unintentional factors beyond the control of
8 the candidate for office that are not the result of a negligent act
9 or nonaction so that a reasonably prudent person would excuse the
10 filing on a temporary basis. These factors include the loss or
11 unavailability of records because of a fire, flood, theft, or
12 similar reason and difficulties related to the transmission of the
13 filing to the secretary of state, such as exceptionally bad
14 weather.

15 (f) As soon as practicable, but not later than 5 business days
16 after a report required to be filed under this act is received,
17 make the report or all of the contents of the report available
18 without charge to the public on a separate webpage or its website
19 homepage.

20 (g) Within 9 business days after the deadline for filing a
21 report under this act, notify, by registered mail or email, an
22 individual of any error or omission in the individual's report or
23 that the individual failed to file the required report.

24 (2) The secretary of state shall issue a declaratory ruling
25 under this section only if the person requesting the ruling has
26 provided a reasonably complete statement of facts necessary for the
27 ruling or if the person requesting the ruling has, with the
28 permission of the secretary of state, supplied supplemental facts
29 necessary for the ruling. Within 2 days after receiving a request

1 for a declaratory ruling, the secretary of state shall make the
2 request available in the manner provided for under subsection
3 (1)(f). An interested person may submit written comments regarding
4 the request to the secretary of state within 10 business days after
5 the date the request is made available to the public. Within 45
6 business days after receiving a declaratory ruling request, the
7 secretary of state shall make a proposed response available in the
8 manner provided for under subsection (1)(f). An interested person
9 may submit written comments regarding the proposed response to the
10 secretary of state within 5 business days after the date the
11 proposal is made available to the public. Except as otherwise
12 provided in this section, the secretary of state shall issue a
13 declaratory ruling within 60 business days after receiving a
14 request for a declaratory ruling. If the secretary of state refuses
15 to issue a declaratory ruling, the secretary of state shall notify
16 the person making the request of the reasons for the refusal and
17 issue an interpretative statement providing an informational
18 response to the question presented within the 60-day period. A
19 declaratory ruling or interpretative statement issued under this
20 section must not state a general rule of law, other than that which
21 is stated in this act, or under judicial order.

22 (3) Under extenuating circumstances, the secretary of state
23 may issue a notice extending, for not more than 30 business days,
24 the period during which the secretary of state shall respond to a
25 request for a declaratory ruling. The secretary of state shall not
26 issue more than 1 notice of extension for a particular request. A
27 person requesting a declaratory ruling may waive, in writing, the
28 time limitations provided by this section.

29 (4) The secretary of state shall make available to the public

1 an annual summary of the declaratory rulings and interpretative
2 statements issued by the secretary of state under this section.

3 (5) A person may file with the secretary of state a complaint
4 that alleges a violation of this act. Within 5 business days after
5 a complaint that meets the requirements of subsection (6) is filed,
6 the secretary of state shall mail notice to the person against whom
7 the complaint is filed. The notice must include a copy of the
8 complaint. Within 15 business days after the notice is mailed, the
9 person against whom the complaint was filed may submit a response
10 to the secretary of state. The secretary of state may extend the
11 period for submitting a response an additional 15 business days for
12 good cause. The secretary of state shall mail a copy of a response
13 received to the complainant. Within 10 business days after the
14 response is mailed, the complainant may submit a rebuttal statement
15 to the secretary of state. The secretary of state may extend the
16 period for submitting a rebuttal statement an additional 10
17 business days for good cause. The secretary of state shall provide
18 a copy of the rebuttal statement to the person against whom the
19 complaint was filed.

20 (6) A complaint filed under subsection (5) must satisfy all of
21 the following requirements:

22 (a) Be signed by the complainant.

23 (b) State the name, address, and telephone number of the
24 complainant.

25 (c) Include the complainant's certification that, to the best
26 of the complainant's knowledge, information, and belief, formed
27 after a reasonable inquiry under the circumstances, each factual
28 contention of the complaint is supported by evidence. However, if,
29 after a reasonable inquiry under the circumstances, the complainant

1 is unable to certify that certain factual contentions are supported
2 by evidence, the complainant may certify that, to the best of the
3 complainant's knowledge, information, or belief, there are grounds
4 to conclude that those specifically identified factual contentions
5 are likely to be supported by evidence after a reasonable
6 opportunity for further inquiry.

7 (7) A person shall not file a complaint with a false
8 certificate under subsection (6)(c). A person may file a complaint
9 under subsection (5) alleging that another person has filed a
10 complaint with a false certificate under subsection (6)(c).

11 (8) The secretary of state shall investigate allegations
12 brought under this act. If an allegation involves the secretary of
13 state, or the secretary of state's spouse, the secretary of state
14 shall refer the matter to the attorney general to determine whether
15 a violation of this act occurred.

16 (9) No later than 45 business days after receiving a rebuttal
17 statement submitted under subsection (5) or, if no response or
18 rebuttal is received under subsection (5), 45 business days after
19 receiving a complaint under subsection (5), the secretary of state
20 shall post on the secretary of state's website whether there may be
21 reason to believe that a violation of this act occurred. If the
22 secretary of state determines whether there may be reason to
23 believe that a violation of this act occurred or determines to
24 terminate its proceedings, the secretary of state shall, within 30
25 days after that determination, post on the secretary of state's
26 website any complaint, response, or rebuttal statement received
27 under subsection (5) regarding that violation or alleged violation
28 and any correspondence that is dispositive of that violation or
29 alleged violation between the secretary of state and the

1 complainant or the person against whom the complaint was filed. If
2 the secretary of state determines there may be reason to believe
3 that a violation of this act occurred, the secretary of state shall
4 endeavor to correct the violation or prevent a further violation by
5 using informal methods such as a conference, conciliation, or
6 persuasion, and may enter into a conciliation agreement with the
7 person involved. Unless violated, a conciliation agreement is a
8 complete bar to any further civil action with respect to matters
9 covered in the conciliation agreement. The secretary of state
10 shall, within 30 days after a conciliation agreement is signed,
11 post that agreement on the department's website. If, after 90
12 business days, the secretary of state is unable to correct or
13 prevent further violation by these informal methods, the secretary
14 of state may commence a hearing as provided in subsection (10) for
15 enforcement of this act.

16 (10) The secretary of state may commence a hearing to
17 determine whether a violation of this act occurred. The hearing
18 must be conducted in accordance with chapter 4 of the
19 administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to
20 24.288.

21 (11) A final decision or order issued by the secretary of
22 state under this act is subject to judicial review as provided
23 under chapter 6 of the administrative procedures act of 1969, 1969
24 PA 306, MCL 24.301 to 24.306. The secretary of state shall deposit
25 a civil fine imposed under this act in the general fund. The
26 secretary of state may bring an action in circuit court to recover
27 the amount of a civil fine.

28 (12) The secretary of state shall review a report or statement
29 filed under this act and may investigate an apparent violation of

1 this act. If the secretary of state determines that there may be
2 reason to believe a violation of this act occurred and the
3 procedures prescribed in subsection (9) have been complied with,
4 the secretary of state may commence a hearing under subsection (10)
5 to determine whether a violation of this act occurred.

6 (13) There is no private right of action, either in law or in
7 equity, under this act. The remedies provided in this act are the
8 exclusive means by which this act may be enforced and by which any
9 harm resulting from a violation of this act may be redressed.

10 (14) The secretary of state shall preserve a report filed
11 under this act for 15 years after the date the report is filed. If
12 the secretary of state or attorney general determines under this
13 section that a violation of this act occurred, the secretary of
14 state shall preserve all complaints, orders, decisions, or other
15 documents related to that violation for 15 years after the date of
16 the determination or the date the violation is corrected, whichever
17 is later. Reports filed under this act may be reproduced under the
18 records reproduction act, 1992 PA 116, MCL 24.401 to 24.406. After
19 the required preservation period, the reports, or the reproductions
20 of the reports, may be disposed of in the manner prescribed in the
21 management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594, and
22 section 11 of the Michigan history center act, 2016 PA 470, MCL
23 399.811.

24 Sec. 15. (1) An individual who fails to file a report as
25 required under this act shall pay a late filing fee of \$25.00 for
26 each business day after the first 10 business days that the report
27 remains unfiled. The fee imposed under this subsection must not
28 exceed \$500.00.

29 (2) A late filing fee collected under this act must be

1 deposited into the general fund.

2 (3) An individual who knowingly files an incomplete or
3 inaccurate report in violation of this act may be ordered to pay a
4 civil fine of not more than \$1,000.00.

5 Enacting section 1. This act does not take effect unless
6 Senate Bill No. 613 of the 102nd Legislature is enacted into law.

7