Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 5410 (Substitute H-2)
Sponsor: Representative Susan Grimes Munsell
House Committee: House Oversight and Ethics
Senate Committee: Government Operations

Date Completed: 12-12-95

SUMMARY OF HOUSE BILL 5410 (Substitute H-2) as passed by the House:

The bill would amend the Michigan Campaign Finance Act to allow each political party caucus in the Legislature to create one political party caucus committee, and require each caucus to dissolve all other independent committees established by the party caucus; specify that a political party caucus committee would be an independent committee (and thus subject to the contribution limits prescribed under the Act for independent committees); regulate political contributions by Indian tribes; prohibit contributions by the governing bodies of State or local governmental entities, or by their employees or officials; require the reporting of expenditures for get-out-the vote activities of a committee; and impose fines for failure to report late contributions.

Political Party Caucus Committees

The bill specifies that a Senate or House political party caucus committee would be an independent committee established by a political party caucus in the Michigan Senate or House of Representatives, respectively; and that each party caucus of each house could maintain only one political party caucus committee. Within 30 days of the bill's effective date, the leader of each political party caucus of the State Senate and House would have to establish or designate the independent committee that was the Senate or House political party caucus committee. Within 30 days after the bill's effective date, a political party caucus of the Senate and House would have to dissolve all independent committees established by that caucus under the Act before the bill's effective date, other than the designated Senate and House political party caucus committees.

The bill would prohibit a person from making contributions to a Senate or House political party caucus committee that exceeded $5,000 in any two-year election cycle. A caucus committee or a treasurer or agent of the committee could not accept a contribution with respect to a two-year election cycle that exceeded the limitation. A person who knowingly violated this provision would be guilty of a misdemeanor punishable, if the person were an individual, by a fine of up to $1,000 or imprisonment for up to 90 days, or both, or, if the person were not an individual, by a fine of up to $10,000.

The bill would prohibit a party caucus committee from paying a debt incurred by a candidate if that debt were incurred while the candidate were seeking nomination at a primary election and was opposed. A caucus committee could not make a contribution to or make an expenditure on behalf of a candidate who was seeking nomination at a primary election and was opposed.

Currently, the Act prescribes a schedule that independent and political committees must follow regarding the filing of campaign statements. The bill provides that a caucus committee would have to file campaign statements according to the following schedule:

-- By January 31 of each year with a closing date of December 31 of the immediately preceding year.
-- By April 25 of each year with a closing date of April 20.
-- By July 25 of each year with a closing date of July 20.
-- By October 25 of each year with a closing date of October 20.
-- For the period beginning on the 14th date immediately preceding a primary or special primary election and ending on the day immediately following the primary or special primary election, by 4:00 p.m. each business day with a closing date of the immediately preceding day, if contributions were received or expenditures made in excess of $1,000 for each day.
-- For the period beginning on the 14th day immediately preceding a general or special election and ending on the day immediately following the general or special election, by 4:00 p.m. each business day with a closing date of the immediately preceding day, if contributions were received or expenditures made in excess of $1,000 for each day.

Indian Tribes

Currently, under the Act, profit and nonprofit corporations, joint stock companies, and labor organizations are subject to various regulations regarding contributions and expenditures, including a provision that prohibits making contributions or expenditures unless the entity forms a separate segregated fund (a political action committee, or PAC) to make contributions and expenditures. The bill would include Indian tribes in these provisions, meaning that Indian tribe PACs would be subject to the same contribution limits (10 times individual contribution limits) to which other independent committees must adhere. The bill would allow an Indian tribe to solicit contributions to its PAC from members of the tribe.

Contributions by Public Bodies

The bill would prohibit a "public body" from making a contribution or expenditure or providing certain volunteer personal services. While acting for a public body, an elected or appointed public official, employee, or any other person could not make a contribution or expenditure or provide certain volunteer personal services. A person who knowingly violated these provisions would be guilty of a felony punishable, if the person were an individual, by a fine of up to $2,000 or imprisonment for up to one year, or both, or if the person were not an individual, by a fine of up to $20,000.

Under the bill, a "public body" would be a legislative or governing body of the State or a political subdivision of the State that was empowered by the State Constitution, statute, charter, ordinance, resolution, or rule to exercise governmental or proprietary authority or perform a governmental or proprietary function. Public body would include but not be limited to a board, commission, authority, or council.

Reporting Registration and Election Day Activities

Currently, the Act requires that certain expenditures be reported on campaign statements, but exempts from its definition of reportable "expenditure" (among other things) expenditures for nonpartisan voter registration or nonpartisan get-out-the-vote activities. The bill would require committees to report certain election day activities, exempting only Federally recognized nonprofit organizations and the Secretary of State and voter registration officials from having to report voter registration or get-out-the-vote expenditures.

The current exemption of voter registration and get-out-the-vote activities from expenditures that must be reported on campaign finance statements specifically includes such activities when conducted by the Secretary of State and other registration officials under the provisions of the Michigan Election Law. The Act specifically *does not* exempt these activities when sponsored or financed by candidates or groups of candidates (including elected officials who are not up for reelection in the year in which the expenditures are made). The bill would restrict the existing reporting exemption of nonpartisan voter registration or get-out-the-vote expenditures to Federally recognized nonprofit organizations and the Secretary of State and other registration officials, and would include the election day activities of poll watchers, challengers, distribution of election day literature, canvassing of voters to get out the vote, or transporting voters to the polls as reportable "expenditures". Finally, the bill would require committees to provide an itemized list of all expenditures during the reporting period for election day busing of voters to the polls, get-out-the-vote activities, slate cards, challengers, poll watchers, and poll workers.

Late Contributions

The bill provides that a committee, candidate, treasurer, or other individual designated as responsible for a committee's record-keeping, report preparation, or report filing who failed to report a late contribution would have to pay a late filing fee of $25 for each business day the report remained unfiled, up to $500.

Other Provisions

The bill provides that regardless of any other provision in the Campaign Finance Act to the contrary, a committee that was licensed under the Bingo Act and conducted an event (games allowed under the Bingo Act) would be required to report cash contributions of $25 or more made at the event. (Currently, the Campaign Finance Act requires all cash contributions of $20 or more to be reported and made by written instrument.) The bill would allow a committee to accept cash contributions of up to $50 per individual per event; establish a separate account in a financial institution as required under the Bingo Act; and require the committee to attach to a campaign statement the most recent report filed with the Bureau of State Lottery as required under the Bingo Act.

The bill would prohibit a corporation, joint stock company, Indian tribe, or labor organization that obtained contributions for a PAC from its employees, members, officers, or stockholders from paying a bonus or other renumeration to those contributors for the purpose of reimbursement. If reimbursement occurred, the entity would be subject to a civil fine equal to two times the total contributions obtained from all persons for the PAC during the calendar year.

MCL 169.205 et al. Legislative Analyst: G. Towne

FISCAL IMPACT

According to the Department of State, reducing the number of political party caucus committees would make administration of the program more efficient. Other portions of the bill would have minimal implications for the Department of State.

Fiscal Analyst: B. Bowerman

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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.