

HOUSE BILL No. 4381

February 19, 2009, Introduced by Reps. Ebli, LeBlanc, Robert Jones, Sheltroun, Geiss, Miller, Byrum, Slavens, Valentine, Donigan and Kandrevas and referred to the Committee on Ethics and Elections.

A bill to regulate political activity; to regulate certain candidates for elective office and state officials; to require financial statements and reports; to prescribe the powers and duties of certain state and local governmental officers and agencies; to impose fees; to prescribe penalties and civil sanctions; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "financial disclosure act".

3 Sec. 2. As used in this act:

4 (a) "Bureau of elections" means the bureau provided for by
5 section 32 of the Michigan election law, 1954 PA 116, MCL 168.32.

1 (b) "Candidate" means that term as defined in section 3 of the
2 Michigan campaign finance act, 1976 PA 388, MCL 169.203.

3 (c) "Candidate for state or local office" means a candidate
4 for any of the following offices:

5 (i) Governor.

6 (ii) Lieutenant governor.

7 (iii) Secretary of state.

8 (iv) Attorney general.

9 (v) State senator.

10 (vi) State representative.

11 (vii) Member of the state board of education.

12 (viii) Justice of the supreme court or judge of a court of
13 record.

14 (ix) Regent of the university of Michigan, member of the board
15 of trustees of Michigan state university, or member of the board of
16 governors of Wayne state university.

17 (x) An elective public office for which the compensation is
18 greater than 2 times the statewide median gross income as
19 determined under section 143(f) of the internal revenue code, 26
20 USC 143(f).

21 (d) "Earned income" means salaries, tips, and other
22 compensation, and net earnings from self-employment for the taxable
23 year.

24 (e) "Immediate family" means a dependent child, a spouse of an
25 individual, or a person claimed by that individual or that
26 individual's spouse as a dependent for federal income tax purposes.

27 (f) "Income" means money or any thing of value received, or to

1 be received as a claim on future services, whether in the form of a
2 fee, salary, expense, allowance, forbearance, forgiveness,
3 interest, dividend, royalty, rent, capital gain, or any other form
4 of recompense that is considered income under the internal revenue
5 code of 1986, 26 USC 1 to 9833.

6 (g) "Principal residence" means that term as defined under
7 section 7dd of the general property tax act, 1893 PA 206, MCL
8 211.7dd.

9 (h) "State or local official" means any of the following:

10 (i) The holder of an office described in subdivision (c).

11 (ii) The head of each principal department as provided in
12 section 3 of article V of the state constitution of 1963, if the
13 office is filled by appointment.

14 (iii) A member of a board or commission heading a principal
15 department as provided in section 3 of article V of the state
16 constitution of 1963, if the office is filled by appointment.

17 Sec. 3. (1) If an individual is a state or local official at
18 any time during a calendar year, that individual shall file with
19 the bureau of elections by May 1 of the following year a report
20 that meets the requirements of section 4. This subsection does not
21 apply to an individual who was a state or local official only on
22 the first day of the calendar year.

23 (2) If an individual is a candidate for state or local office
24 and has not already filed a report under subsection (1) covering
25 the preceding calendar year, that individual shall file with the
26 bureau of elections a report that meets the requirements of section
27 4 within 30 days after the earliest of the following events, but

1 not later than 11 days before the first election at which the
2 individual's name appears on the ballot as a candidate following
3 the event:

4 (a) If the individual files a fee, affidavit of incumbency, or
5 nominating petition for the state office, the deadline for filing
6 the fee, affidavit of incumbency, or nominating petition
7 established by the Michigan election law, 1954 PA 116, MCL 168.1 to
8 168.992.

9 (b) If the individual is nominated at a political party caucus
10 or convention, the deadline for holding the caucus or convention
11 established by the Michigan election law, 1954 PA 116, MCL 168.1 to
12 168.992.

13 (c) The date on which the individual first receives a
14 contribution, makes an expenditure, or gives consent for another
15 person to receive a contribution or make an expenditure with the
16 purpose or intent of bringing about the individual's nomination or
17 election to a state office.

18 (d) The date on which the individual forms a candidate
19 committee as a candidate for state or local office under section 21
20 of the Michigan campaign finance act, 1976 PA 388, MCL 169.221.

21 (3) An individual who is a candidate for the office of
22 governor shall file with the bureau of elections on June 15 of the
23 year in which the election for the office of governor will be held
24 a copy of the individual's federal tax returns for the 3 preceding
25 calendar years. A social security number on a tax return filed
26 under this subsection may be redacted.

27 Sec. 4. (1) Subject to section 5 and except as provided in

1 section 6, a report required by section 3 shall include a complete
2 statement of all of the following:

3 (a) The full name, address, occupation of, and the state
4 office held or sought by, the individual filing the report.

5 (b) The name of each member of the immediate family of the
6 individual filing the report.

7 (c) The name and address of each employer of the individual
8 filing the report during the calendar year covered by the report.

9 (d) Both of the following, as applicable:

10 (i) The source, type, and amount or value of earned income
11 received during the preceding calendar year by the individual
12 filing the report if the total earned income from that source
13 equals \$1,000.00 or more during that calendar year.

14 (ii) The source and type of earned income received during the
15 preceding calendar year by the spouse of the individual filing the
16 report if the total earned income from that source equals \$1,000.00
17 or more during that calendar year.

18 (e) The source, type, and amount or value of all other income
19 not reported under subdivision (d) that is received during the
20 preceding calendar year by the individual filing the report or a
21 member of the immediate family of that individual if the total
22 income from that source equals \$1,000.00 or more during that
23 calendar year.

24 (f) The identity and value of each asset held during the
25 preceding calendar year by the individual filing the report or a
26 member of the immediate family of that individual, including real
27 or personal property or cash, if the asset had a fair market value

1 of \$10,000.00 or more at any time the asset was held during the
2 preceding calendar year. However, if the individual filing the
3 report owns or has an interest in all or a portion of a farm or
4 business, the identity and value of each asset held during the
5 preceding year that is used in the operation of the farm or
6 business is not required to be reported under this subdivision if
7 the report includes a complete statement of the identity and value
8 of the farm or business.

9 (g) The identity and value of each liability owed during the
10 preceding calendar year by the individual filing the report or a
11 member of the immediate family of that individual if the amount of
12 the liability was \$10,000.00 or more at any time during the
13 preceding calendar year. This subdivision does not apply to loans
14 secured by the principal residence of the individual filing the
15 report or by a personal motor vehicle, household furniture, or
16 appliance, if the loans do not exceed the greater of the purchase
17 price or the market value of the item that secures the liability.

18 (h) A brief description and value of a purchase, sale, or
19 exchange of real property, other than real property used solely as
20 a principal residence by the individual filing the report and his
21 or her immediate family, or of stocks, bonds, commodities, futures,
22 or other forms of securities during the preceding calendar year by
23 the individual filing the report or a member of the immediate
24 family of that individual, if the value is \$1,000.00 or more. This
25 subdivision does not require a description of each purchase, sale,
26 or exchange of stocks, bonds, commodities, or other forms of
27 securities if those items are part of a mutual fund and if the

1 identity and value of the mutual fund is otherwise reported under
2 this act.

3 (i) Except as otherwise provided by this subdivision, the
4 identity of all positions held by the individual filing the report
5 during the preceding calendar year as an officer, director, member,
6 trustee, partner, proprietor, representative, employee, or
7 consultant of a corporation, limited liability company, limited
8 partnership, partnership, or other business enterprise; of a
9 nonprofit organization; of a labor organization; or of an
10 educational or other institution other than this state. An
11 individual filing the report who is required to have a license to
12 practice or engage in a particular occupation or profession is not
13 required to identify a position held as a consultant of a
14 corporation unless the corporation is a publicly held corporation
15 that has shares that are listed or traded over the counter or on an
16 organized exchange or has gross revenues over \$4,000,000.00. This
17 subdivision does not require the reporting of a position held in a
18 religious, social, fraternal, or political entity, or of a position
19 solely of an honorary nature.

20 (j) If the individual filing the report has an agreement or
21 has made an arrangement with respect to future employment, a leave
22 of absence during that individual's term of office, continuation of
23 payments by a former employer, or continuation of participation in
24 an employee benefit plan maintained by a former employer, a
25 description of the agreement or arrangement, including the dates,
26 parties, and terms.

27 (2) Information required to be reported under this section

1 shall include information with respect to the holdings of and the
2 income from a trust or other financial arrangement from which
3 income is received by, or with respect to which a beneficial
4 interest in principal or income is held by, an individual required
5 to file a report under this section or an immediate family member
6 of the individual.

7 Sec. 5. (1) An amount or value reported under section 4(d),
8 (e), (f), or (h) shall be reported by category as follows:

9 (a) \$1,000.00 or more but less than \$10,000.00.

10 (b) \$10,000.00 or more but less than \$50,000.00.

11 (c) \$50,000.00 or more but less than \$100,000.00.

12 (d) \$100,000.00 or more but less than \$500,000.00.

13 (e) \$500,000.00 or more.

14 (2) An amount or value reported under section 4(g) shall be
15 reported by category as follows:

16 (a) \$10,000.00 or more but less than \$50,000.00.

17 (b) \$50,000.00 or more but less than \$100,000.00.

18 (c) \$100,000.00 or more but less than \$500,000.00.

19 (d) \$500,000.00 or more.

20 (3) Instead of specifying the category of the amount or value
21 of an item in a report under this act, an individual may indicate
22 the exact amount or value of the item.

23 Sec. 6. A report under section 4 may omit any of the
24 following:

25 (a) Information required to be reported under the Michigan
26 campaign finance act, 1976 PA 388, MCL 169.201 to 169.282.

27 (b) A liability owed to the individual filing the report or a

1 relative within the third degree of consanguinity to that
2 individual if lent by the individual filing the report or a
3 relative within the third degree of consanguinity to that
4 individual.

5 (c) An item otherwise required to be reported under section
6 4(f), (g), or (h) if all of the following apply:

7 (i) The item represents the sole financial interest and
8 responsibility of a member of the immediate family of the
9 individual filing the report about which the individual filing the
10 report does not have actual knowledge.

11 (ii) The item is not in any way, past or present, derived from
12 the income, assets, or activities of the individual filing the
13 report.

14 (iii) The individual filing the report does not derive, or
15 expect to derive, financial benefit from the item.

16 (d) An item that concerns a spouse who is living separate and
17 apart from the individual filing the report with the intention of
18 terminating the marriage or maintaining a legal separation.

19 (e) An item that concerns income or obligations of the
20 individual filing the report arising from dissolution of his or her
21 marriage or a permanent legal separation from his or her spouse.

22 (f) Compensation from a publicly held corporation that has
23 shares that are listed or traded over the counter or on an
24 organized exchange paid to a business owned by the individual
25 filing the report or in which the individual filing the report has
26 an interest, if the report under section 4 includes a complete
27 statement of the identity and value of that business and the

1 individual filing the report is required to have a license as
2 described in section 4(i).

3 (g) Benefits received under the social security act, chapter
4 531, 49 Stat. 620.

5 Sec. 7. The bureau of elections shall do all of the following:

6 (a) Prepare and make available appropriate forms and
7 instructions for the reports required by this act.

8 (b) Receive reports required by this act.

9 (c) As soon as practicable, but not later than the end of the
10 business day on which a report required to be filed under this act
11 is received, make the report or all of the contents of the report
12 available without charge to the public on the internet at a single
13 website established and maintained by the secretary of state, and
14 not later than the third business day following the day on which
15 the report is received, make the report available for public
16 inspection and reproduction during regular business hours.

17 (d) Promulgate rules and issue declaratory rulings to
18 implement this act pursuant to the administrative procedures act of
19 1969, 1969 PA 306, MCL 24.201 to 24.328.

20 (e) Conduct investigations as necessary to determine whether
21 there is reason to believe that a violation of this act occurred.
22 Investigations shall be conducted pursuant to the administrative
23 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

24 Sec. 8. (1) A citizen of this state may file a complaint with
25 the bureau of elections alleging a violation of this act. The
26 bureau of elections, upon receipt of a complaint, shall investigate
27 the allegations as provided in section 7.

1 (2) If the bureau of elections, upon investigation, determines
2 that there is reason to believe a violation of this act occurred,
3 the bureau of elections shall forward the results of that
4 investigation to the attorney general for enforcement of this act,
5 if the attorney general is not the subject of the complaint. If the
6 bureau of elections, upon investigation, determines that there is
7 reason to believe that the attorney general violated this act, the
8 bureau of elections shall forward the results of the investigation
9 to the prosecuting attorney for Ingham county for enforcement of
10 this act.

11 (3) The attorney general or, if the attorney general is the
12 individual who is alleged to have violated this act, the
13 prosecuting attorney for Ingham county shall enforce this act
14 against an individual who violates this act.

15 Sec. 9. (1) An individual who fails to file a report as
16 required under this act shall pay a late filing fee not to exceed
17 \$1,000.00, determined as follows:

18 (a) Twenty-five dollars for each of the first 3 business days
19 that the report remains unfiled.

20 (b) Fifty dollars for each of the next 7 business days after
21 the first 3 business days that the report remains unfiled.

22 (c) One hundred dollars for each business day after the first
23 10 business days that the report remains unfiled.

24 (2) If an individual required to file a report under this act
25 knowingly files an incomplete or inaccurate report, the individual
26 is guilty of a misdemeanor punishable by imprisonment for not more
27 than 90 days or a fine of not more than \$1,000.00, or both.

1 (3) If an individual required to file a report under this act
2 fails to file 2 reports and if both of the reports remain unfiled
3 for more than 30 days, the individual is guilty of a misdemeanor
4 punishable by imprisonment for not more than 90 days or a fine of
5 not more than \$1,000.00, or both.

6 (4) A default in the payment of a fee due or ordered under
7 this act, or an installment of the fee, may be remedied by any
8 means available under the revised judicature act of 1961, 1961 PA
9 236, MCL 600.101 to 600.9947.

10 Enacting section 1. This act takes effect May 2, 2010.