

**SUBSTITUTE FOR
HOUSE BILL NO. 5219**

A bill to amend 1976 PA 388, entitled
"Michigan campaign finance act,"
by amending section 57 (MCL 169.257), as amended by 2015 PA 269.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 57. (1) A public body or a person acting for a public
2 body shall not use or authorize the use of funds, personnel, office
3 space, computer hardware or software, property, stationery,
4 postage, vehicles, equipment, supplies, or other public resources
5 to make a contribution or expenditure or provide volunteer personal
6 services that are excluded from the definition of contribution
7 under section 4(3)(a). The prohibition under this subsection
8 includes, but is not limited to, using or authorizing the use of

1 public resources to establish or administer a payroll deduction
2 plan to directly or indirectly collect or deliver a contribution
3 to, or make an expenditure for, a committee. Advance payment or
4 reimbursement to a public body does not cure a use of public
5 resources otherwise prohibited by this subsection. This subsection
6 does not apply to any of the following:

7 (a) ~~The~~ **SUBJECT TO SUBSECTION (3), THE** expression of views by
8 an elected or appointed public official who has policy making
9 responsibilities.

10 (b) Subject to subsection (3), the production or dissemination
11 of factual information concerning issues relevant to the function
12 of the public body.

13 (c) The production or dissemination of debates, interviews,
14 commentary, **MEETINGS OF A PUBLIC BODY**, or information by a
15 broadcasting station, newspaper, magazine, or other periodical or
16 publication in the regular course of broadcasting or publication.

17 (d) The use of a public facility owned or leased by, or on
18 behalf of, a public body if any candidate or committee has an equal
19 opportunity to use the public facility.

20 (e) The use of a public facility owned or leased by, or on
21 behalf of, a public body if that facility is primarily used as a
22 family dwelling and is not used to conduct a fund-raising event.

23 (f) An elected or appointed public official or an employee of
24 a public body who, when not acting for a public body but is on his
25 or her own personal time, is expressing his or her own personal
26 views, is expending his or her own personal funds, or is providing
27 his or her own personal volunteer services.

1 (2) If the secretary of state has dismissed a complaint filed
2 under section 15(5) alleging that a public body or person acting
3 for a public body used or authorized the use of public resources to
4 establish or administer a payroll deduction plan to collect or
5 deliver a contribution to, or make an expenditure for, a committee
6 in violation of this section, or if the secretary of state enters
7 into a conciliation agreement under section 15(10) that does not
8 prevent a public body or a person acting for a public body to use
9 or authorize the use of public resources to establish or administer
10 a payroll deduction plan to collect or deliver a contribution to,
11 or make an expenditure for, a committee in violation of this
12 section, the following apply:

13 (a) The complainant or any other person who resides, or has a
14 place of business, in the jurisdiction where the use or
15 authorization of the use of public resources occurred may bring a
16 civil action against the public body or person acting for the
17 public body to seek declaratory, injunctive, mandamus, or other
18 equitable relief and to recover losses that a public body suffers
19 from the violation of this section.

20 (b) If the complainant or any other person who resides, or has
21 a place of business, in the jurisdiction where the use or
22 authorization of the use of public resources occurred prevails in
23 an action initiated under this subsection, a court shall award the
24 complainant or any other person necessary expenses, costs, and
25 reasonable attorney fees.

26 (c) Any amount awarded or equitable relief granted by a court
27 under this subsection may be awarded or granted against the public

House Bill No. 5219 as amended February 23, 2016

1 body or an individual acting for the public body, or both, that
2 violates this section, as determined by the court.

3 (d) A complainant or any other person who resides, or has a
4 place of business, in the jurisdiction where the use or
5 authorization of the use of public resources occurred may bring a
6 civil action under this subsection in any county in which venue is
7 proper. Process issued by a court in which an action is filed under
8 this subsection may be served anywhere in this state.

9 (3) Except **FOR ACTIVITY OTHERWISE PERMITTED UNDER SUBSECTION**
10 **(1) (C) TO (F), AND EXCEPT** for an election official in the
11 performance of his or her duties under the Michigan election law,
12 1954 PA 116, MCL 168.1 to 168.992, a public body, or a person
13 acting for a public body, shall not ~~, during the period 60 days~~
14 ~~before an election in which a local ballot question appears on a~~
15 ~~ballot,~~ use public funds or resources for a communication by means
16 of radio ~~,~~ **OR** television **ADVERTISEMENT**, mass mailing, or
17 prerecorded telephone message if that communication references a
18 local ballot question and is targeted to the ~~relevant~~ electorate
19 where the local ballot question ~~appears~~ **WILL APPEAR** on the ballot.
20 **AS USED IN THIS SUBSECTION, "COMMUNICATION" DOES NOT INCLUDE:**

21 (A) THE LANGUAGE OF A LOCAL BALLOT QUESTION.

22 (B) THE DATE OF AN ELECTION.

23 (C) FACTUAL AND [] NEUTRAL INFORMATION CONCERNING THE
24 **[PURPOSE OR]** DIRECT IMPACT OF A LOCAL BALLOT QUESTION ON A PUBLIC BODY OR THE
25 ELECTORATE, EXCEPT IF THE COMMUNICATION CAN REASONABLY BE
26 INTERPRETED AS AN ATTEMPT TO INFLUENCE THE OUTCOME OF A LOCAL
27 BALLOT QUESTION.

House Bill No. 5219 as amended February 23, 2016

1 (4) A person who knowingly violates this section is ~~[guilty of~~
2 ~~a misdemeanor punishable, if the person is an individual, by a fine~~
3 ~~of not more than \$1,000.00 or imprisonment for not more than 1~~
4 ~~year, or both, or if the person is not an individual, by 1 of the~~
5 ~~following, whichever is greater:~~

6 ~~—— (a) A fine of not more than \$20,000.00.~~

7 ~~—— (b) A fine equal to the amount of the improper contribution or~~
8 ~~expenditure. SUBJECT TO THE FOLLOWING:~~

(A) IF THE PERSON IS AN INDIVIDUAL, A CIVIL FINE OF NOT MORE THAN
\$1,000.00.

(B) IF THE PERSON IS NOT AN INDIVIDUAL, 1 OF THE FOLLOWING,
WHICHEVER IS GREATER:

(i) A CIVIL FINE OF NOT MORE THAN \$20,000.00.

(ii) A FINE EQUAL TO THE AMOUNT OF THE IMPROPER CONTRIBUTION OR
EXPENDITURE.]