

HOUSE BILL No. 5219

January 14, 2016, Introduced by Rep. Lyons and referred to the Committee on Elections.

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
9 public resources to establish or administer a payroll deduction
10 plan to directly or indirectly collect or deliver a contribution
11 to, or make an expenditure for, a committee. Advance payment or

1 reimbursement to a public body does not cure a use of public
2 resources otherwise prohibited by this subsection. This subsection
3 does not apply to any of the following:

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

7 (b) Subject to subsection (3), the production or dissemination
8 of factual information concerning issues relevant to the function
9 of the public body.

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

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

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

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

25 (2) If the secretary of state has dismissed a complaint filed
26 under section 15(5) alleging that a public body or person acting
27 for a public body used or authorized the use of public resources to

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

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

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

23 (c) Any amount awarded or equitable relief granted by a court
24 under this subsection may be awarded or granted against the public
25 body or an individual acting for the public body, or both, that
26 violates this section, as determined by the court.

27 (d) A complainant or any other person who resides, or has a

1 place of business, in the jurisdiction where the use or
2 authorization of the use of public resources occurred may bring a
3 civil action under this subsection in any county in which venue is
4 proper. Process issued by a court in which an action is filed under
5 this subsection may be served anywhere in this state.

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

18 (A) **THE LANGUAGE OF A LOCAL BALLOT QUESTION.**

19 (B) **THE DATE OF AN ELECTION.**

20 (C) **A DISCUSSION OF A LOCAL BALLOT QUESTION DURING A MEETING**
21 **OF A PUBLIC BODY, INCLUDING A MEETING THAT IS BROADCAST USING A**
22 **PUBLIC ACCESS MEDIUM, PROVIDED THAT BOTH PROPONENTS AND OPPONENTS**
23 **OF THE LOCAL BALLOT QUESTION HAVE AN EQUAL OPPORTUNITY TO DISCUSS**
24 **THE LOCAL BALLOT QUESTION.**

25 (4) A person who knowingly violates this section is guilty of
26 a misdemeanor punishable, if the person is an individual, by a fine
27 of not more than \$1,000.00 or imprisonment for not more than 1

1 year, or both, or if the person is not an individual, by 1 of the
2 following, whichever is greater:

3 (a) A fine of not more than \$20,000.00.

4 (b) A fine equal to the amount of the improper contribution or
5 expenditure.