

PROHIBIT DISCLOSURE OF CERTAIN DONOR INFORMATION

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Senate Bill 1176 as enrolled
Sponsor: Sen. Mike Shirkey
House Committee: Michigan Competitiveness
Senate Committee: Michigan Competitiveness
Complete to 2-4-19

Analysis available at
<http://www.legislature.mi.gov>

(Vetoed by the Governor 12-28-18)

SUMMARY:

Senate Bill 1176 would create the Personal Privacy Protection Act to exempt certain information from disclosure and set penalties for violation of that provision. It would stipulate that the proposed act would not affect any provisions of the Michigan Campaign Finance Act.

The bill would prohibit a **public agency** from doing any of the following (except when authorized by a lawful warrant or request for discovery in litigation):

- Requiring an entity organized under Section 501(c) of the Internal Revenue Code (which lists the organizations exempt from taxation under the portion of the U.S. Code that governs income taxes) to provide the public agency with **personal information**.

Personal information would mean any list, record, register, registry, roll, roster, or any other compilation of data of any kind that directly or indirectly identified a person as a member, supporter, or volunteer of, or donor or financial or nonfinancial support to, any entity organized under Section 501(c).

Public agency would mean any state or local governmental unit, however designated, including the state; any department, agency, office, commission, board, division, or other entity of the state; any political subdivision of the state, including a county, city, township, village, school district, community college district, or any other local governmental unit, agency, authority, council, board, or commission; or any state or local court, tribunal, or other judicial or quasi-judicial body.

- Releasing, publicizing, or otherwise disclosing personal information without the express written permission of every identified member, supporter, volunteer, or donor and the tax-exempt entity that received their membership, support, volunteer time, or donations.
- Requesting or requiring a current or prospective contractor with the public agency to provide the public agency with a list of entities organized under Section 501(c) to which it has provided financial or nonfinancial support.

The bill would state that personal information is exempt from disclosure under the Freedom of Information Act (FOIA).

Violation and penalty

A person alleging a violation of the proposed act could bring a civil action for appropriate injunctive relief (which would prevent parties from acting) or damages, or both. The damages

could include at least \$2,500 per violation or, for an intentional violation, up to \$7,500. Additionally, a court could award all or a portion of the costs of litigation to the complainant.

A person who knowingly violated the act would be guilty of a misdemeanor punishable by imprisonment of up to 90 days or a fine of up to \$1,000, or both.

FISCAL IMPACT:

Senate Bill 1176 could have an indeterminate fiscal impact on the state and on local units of government, which would depend on the number of persons alleging violation of provisions in the bill and seeking monetary damages and the amount of monetary damages awarded. Under the bill, persons could seek monetary damages that would range from \$2,500 to \$7,500 for each violation.

Persons who are found to have violated provisions in the bill would be guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$1,000, or both. New misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision. Costs of local incarceration in county jails and local misdemeanor probation supervision, and how those costs are financed, vary by jurisdiction. Any fiscal impact on the judiciary and local court systems would depend on how provisions of the bill affected caseloads and related administrative costs. Any increase in penal fine revenue would increase funding for local libraries, which are the constitutionally designated recipients of those revenues.

Vetoed 12-28-18:

In his veto message, Governor Snyder said, “I understand and appreciate the goals of this legislation: to prevent the creation of target lists of donors to nonprofit organizations that may espouse controversial views.” However, he noted his concern “that this bill’s broad prohibitions will impair the executive branch’s ability to effectively protect the donors of organizations.” He added:

Moreover, I believe this legislation is a solution in search of a problem that does not exist in Michigan. While other state attorneys general have probed for information relative to nonprofit donors, that has not been the case here in Michigan. And I believe the Supreme Court’s decision in *NAACP v Alabama* effectively prohibits the type of activities that this legislation is seeking to prohibit.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.