

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5058**

A bill to amend 1976 PA 388, entitled
"Michigan campaign finance act,"
by amending section 15 (MCL 169.215), as amended by 1999 PA 238;
and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 15. (1) The secretary of state shall do all of the
2 following:

3 (a) Make available through his or her offices, and furnish
4 to county clerks, appropriate forms, instructions, and manuals
5 required by this act.

6 (b) Develop a filing, coding, and cross-indexing system for
7 the filing of required reports and statements consistent with the
8 purposes of this act, and supervise the implementation of the
9 filing systems by the clerks of the counties.

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1 (c) Receive all statements and reports required by this act
2 to be filed with the secretary of state.

3 (d) Prepare forms, instructions, and manuals required under
4 this act.

5 (e) Promulgate rules and issue declaratory rulings to imple-
6 ment this act pursuant to the administrative procedures act of
7 1969, 1969 PA 306, MCL 24.201 to 24.328.

8 (f) Upon receipt of a written request and the required
9 filing, waive payment of a late filing fee if the request for the
10 waiver is based on good cause and accompanied by adequate
11 documentation. One or more of the following reasons constitute
12 good cause for a late filing fee waiver:

13 (i) The incapacitating physical illness, hospitalization,
14 accident involvement, death, or incapacitation for medical rea-
15 sons of a person required to file, a person whose participation
16 is essential to the preparation of the statement or report, or a
17 member of the immediate family of these persons.

18 (ii) Other unique, unintentional factors beyond the filer's
19 control not stemming from a negligent act or nonaction so that a
20 reasonably prudent person would excuse the filing on a temporary
21 basis. These factors include the loss or unavailability of
22 records due to a fire, flood, theft, or similar reason and diffi-
23 culties related to the transmission of the filing to the filing
24 official, such as exceptionally bad weather or strikes involving
25 transportation systems.

26 (2) A declaratory ruling shall be issued under this section
27 only if the person requesting the ruling has provided a

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1 reasonably complete statement of facts necessary for the ruling
2 or if ~~the secretary of state has permitted~~ the person request-
3 ing the ruling ~~an opportunity to supply~~ HAS, WITH THE PERMIS-
4 SION OF THE SECRETARY OF STATE, SUPPLIED supplemental facts nec-
5 essary for the ruling. A request for a declaratory ruling that
6 is submitted to the secretary of state shall be made available
7 for public inspection within 48 hours after its receipt. An
8 interested person may submit written comments regarding the
9 request to the secretary of state within 10 business days after
10 the date the request is made available to the public. Within 45
11 business days after receiving a declaratory ruling request, the
12 secretary of state shall make a proposed response available to
13 the public. An interested person may submit written comments
14 regarding the proposed response to the secretary of state within
15 5 business days after the date the proposal is made available to
16 the public. Except as otherwise provided in this section, the
17 secretary of state shall issue a declaratory ruling within
18 60 business days after a request for a declaratory ruling is
19 received. If the secretary of state refuses to issue a declara-
20 tory ruling, the secretary of state shall notify the person
21 making the request of the reasons for the refusal. The secretary
22 of state may issue an interpretative statement providing an
23 informational response to the question presented. A declaratory
24 ruling or interpretative statement issued under this section
25 shall not state a general rule of law, other than that which is
26 stated in this act, until the general rule of law is promulgated
27 by the secretary of state as a rule pursuant to the

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1 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
2 24.328, or pursuant to judicial order.

3 (3) Under extenuating circumstances, the secretary of state
4 may issue a notice extending for not more than 30 business days
5 the period during which the secretary of state shall respond to a
6 request for a declaratory ruling. The secretary of state shall
7 not issue more than 1 notice of extension for a particular
8 request. A person requesting a declaratory ruling may waive, in
9 writing, the time limitations provided by this section.

10 (4) The secretary of state shall make available to the
11 public an annual summary of the declaratory rulings and interpre-
12 tative statements issued by the secretary of state.

13 (5) A person may file WITH THE SECRETARY OF STATE a com-
14 plaint ~~with the secretary of state alleging~~ THAT ALLEGES a vio-
15 lation of this act. Within 5 business days after a complaint
16 THAT MEETS THE REQUIREMENTS OF SUBSECTION (6) is filed, the sec-
17 retary of state shall give notice to the person against whom the
18 complaint is filed. The notice shall include a copy of the
19 complaint. Within 15 business days after this notice is pro-
20 vided, the person against whom the complaint was filed may submit
21 to the secretary of state a response. The secretary of state may
22 extend the period for submitting a response an additional 15
23 business days for good cause. The secretary of state shall pro-
24 vide a copy of a response received to the complainant. Within 10
25 business days after receiving a copy of the response, the com-
26 plainant may submit to the secretary of state a rebuttal
27 statement. The secretary of state may extend the period for

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1 submitting a rebuttal statement an additional 10 business days
2 for good cause. The secretary of state shall provide a copy of
3 the rebuttal statement to the person against whom the complaint
4 was filed.

5 (6) A COMPLAINT UNDER SUBSECTION (5) SHALL SATISFY ALL OF
6 THE FOLLOWING REQUIREMENTS:

7 (A) BE SIGNED BY THE COMPLAINANT.

8 (B) STATE THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE
9 COMPLAINANT.

10 (C) INCLUDE THE COMPLAINANT'S CERTIFICATION OF BOTH OF THE
11 FOLLOWING:

12 (i) THAT, TO THE BEST OF THE COMPLAINANT'S KNOWLEDGE, INFOR-
13 MATION, AND BELIEF, FORMED AFTER A REASONABLE INQUIRY UNDER THE
14 CIRCUMSTANCES, THERE IS A REASONABLE LEGAL BASIS TO CONCLUDE THAT
15 EACH ALLEGATION IN THE COMPLAINT CONSTITUTES A VIOLATION OF THIS
16 ACT.

17 (ii) THAT, TO THE BEST OF THE COMPLAINANT'S KNOWLEDGE,
18 INFORMATION, AND BELIEF, FORMED AFTER A REASONABLE INQUIRY UNDER
19 THE CIRCUMSTANCES, EACH FACTUAL CONTENTION OF THE COMPLAINT IS
20 SUPPORTED BY EVIDENCE. HOWEVER, IF, AFTER A REASONABLE INQUIRY
21 UNDER THE CIRCUMSTANCES, THE COMPLAINANT IS UNABLE TO CERTIFY
22 THAT SPECIFICALLY IDENTIFIED FACTUAL CONTENTIONS ARE SUPPORTED BY
23 EVIDENCE, THE COMPLAINANT MAY CERTIFY THAT, TO THE BEST OF HIS OR
24 HER KNOWLEDGE, INFORMATION, OR BELIEF, THERE ARE GROUNDS TO CON-
25 CLUDE THAT THOSE FACTUAL CONTENTIONS ARE LIKELY TO BE SUPPORTED
26 BY EVIDENCE AFTER A REASONABLE OPPORTUNITY FOR FURTHER INQUIRY.

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1 (7) THE SECRETARY OF STATE SHALL DEVELOP A FORM THAT
2 SATISFIES THE REQUIREMENTS OF SUBSECTION (6) AND MAY BE USED FOR
3 THE FILING OF COMPLAINTS.

4 (8) A PERSON WHO FILES A COMPLAINT WITH A FALSE CERTIFICATE
5 UNDER SUBSECTION (6)(C) IS RESPONSIBLE FOR A CIVIL VIOLATION OF
6 THIS ACT. A PERSON MAY FILE A COMPLAINT UNDER SUBSECTION (6)
7 ALLEGING THAT ANOTHER PERSON HAS FILED A COMPLAINT WITH A FALSE
8 CERTIFICATE UNDER SUBSECTION (6)(C).

9 (9) The secretary of state shall investigate the allegations
10 pursuant to the rules promulgated under this act. Every 60 days
11 after a complaint THAT MEETS THE REQUIREMENTS OF SUBSECTION (6)
12 is filed and until the matter is terminated, the secretary of
13 state shall mail to the complainant and to the alleged violator
14 notice of the action taken to date by the secretary of state,
15 together with the reasons for the action or nonaction.

16 (10) If the secretary of state determines that there may be
17 reason to believe that a violation of this act has occurred, the
18 secretary of state shall endeavor to correct the violation or
19 prevent a further violation by using informal methods such as a
20 conference, conciliation, or persuasion, and may enter into a
21 conciliation agreement with the person involved. Unless vio-
22 lated, a conciliation agreement is a complete bar to any further
23 action with respect to matters covered in the conciliation
24 agreement. If the secretary of state is unable to correct or
25 prevent further violation by these informal methods, the secre-
26 tary of state may refer the matter to the attorney general for

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1 the enforcement of any criminal penalty provided by this act or
2 commence a hearing pursuant to subsection ~~(6)~~ (11).

3 (11) ~~(6)~~ The secretary of state may commence a hearing to
4 determine whether a civil violation of this act has occurred. A
5 hearing shall not be commenced during the period beginning 30
6 days before an election in which the committee has received or
7 expended money and ending the day after that election except with
8 the consent of the person suspected of committing a civil
9 violation. The hearing shall be conducted in accordance with the
10 procedures set forth in chapter 4 of the administrative proce-
11 dures act of 1969, 1969 PA 306, MCL 24.271 to 24.287. If after a
12 hearing the secretary of state determines that a violation of
13 this act has occurred, the secretary of state may issue an order
14 requiring the person to pay a civil fine equal to the amount of
15 the improper contribution or expenditure plus not more than
16 \$1,000.00 for each violation. A final decision and order issued
17 by the secretary of state is subject to judicial review as pro-
18 vided by chapter 6 of the administrative procedures act of 1969,
19 1969 PA 306, MCL 24.301 to 24.306. The secretary of state shall
20 deposit a civil fine imposed under this section in the general
21 fund. The secretary of state may bring an action in circuit
22 court to recover the amount of a civil fine.

23 (12) ~~(7)~~ When a report or statement is filed pursuant to
24 this act, the secretary of state shall review the report or
25 statement and may investigate an apparent violation of this act
26 pursuant to the rules promulgated under this act. If the
27 secretary of state determines that there may be reason to believe

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1 a violation of this act has occurred and the procedures
2 prescribed in subsection ~~(5)~~ (10) have been complied with, the
3 secretary of state may refer the matter to the attorney general
4 for the enforcement of any criminal penalty provided by this act,
5 or commence a hearing under subsection ~~(6)~~ (11) to determine
6 whether a civil violation of this act has occurred.

7 (13) ~~(8)~~ Unless otherwise specified in this act, a person
8 who violates a provision of this act is subject to a civil fine
9 of not more than \$1,000.00 for each violation. Civil fines are
10 in addition to, but not limited by, any criminal penalty pre-
11 scribed by this act.

12 (14) IN ADDITION TO ANY OTHER SANCTION PROVIDED FOR BY THIS
13 ACT, THE SECRETARY OF STATE MAY REQUIRE A PERSON WHO FILES A COM-
14 PLAINT WITH A FALSE CERTIFICATE UNDER SUBSECTION (6)(C) TO DO
15 EITHER OR BOTH OF THE FOLLOWING:

16 (A) PAY TO THE SECRETARY OF STATE SOME OR ALL OF THE
17 EXPENSES INCURRED BY THE SECRETARY OF STATE AS A DIRECT RESULT OF
18 THE FILING OF THE COMPLAINT.

19 (B) PAY TO THE PERSON AGAINST WHOM THE COMPLAINT WAS FILED
20 SOME OR ALL OF THE EXPENSES, INCLUDING, BUT NOT LIMITED TO, REA-
21 SONABLE ATTORNEY FEES INCURRED BY THAT PERSON IN PROCEEDINGS
22 UNDER THIS ACT AS A DIRECT RESULT OF THE FILING OF THE COMPLAINT.

23 (15) ~~(9)~~ There is no private right of action, either in
24 law or in equity, pursuant to this act. The remedies provided in
25 this act are the exclusive means by which this act may be
26 enforced and by which any harm resulting from a violation of this
27 act may be redressed.

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1 (16) ~~(10)~~ The secretary of state may waive the filing of a
2 campaign statement required under section 33, 34, or 35 if the
3 closing date of the particular campaign statement falls on the
4 same or a later date as the closing date of the next campaign
5 statement filed by the same person, or if the period that would
6 be otherwise covered by the next campaign statement filed by the
7 same person is 10 days or less.

8 (17) ~~(11)~~ The clerk of each county shall do all of the
9 following:

10 (a) Make available through the county clerk's office the
11 appropriate forms, instructions, and manuals required by this
12 act.

13 (b) Under the supervision of the secretary of state, imple-
14 ment the filing, coding, and cross-indexing system prescribed for
15 the filing of reports and statements required to be filed with
16 the county clerk's office.

17 (c) Receive all statements and reports required by this act
18 to be filed with the county clerk's office.

19 (d) Upon written request, waive the payment of a late filing
20 fee if the request for a waiver is based on good cause as pre-
21 scribed in subsection (1)(f).

22 Enacting section 1. Section 18 of the Michigan campaign
23 finance act, 1976 PA 388, MCL 169.218, as added by 1999 PA 237,
24 is repealed.

25 Enacting section 2. This amendatory act takes effect March
26 10, 2000.