

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 759 (as enrolled)
Sponsor: Senator Loren Bennett
Senate Committee: Government Operations
House Committee: Redistricting and Elections

PUBLIC ACT 250 of 2001

Date Completed: 1-17-03

CONTENT

The bill amended the Michigan Campaign Finance Act to do the following:

- **Limit the amount of bundled contributions that may be made to the candidate committee of a candidate for Statewide elective office.**
- **Require bundling committees and candidate committees to report to the Secretary of State on bundled contributions and contributors.**
- **Prohibit a public body from using or authorizing the use of computer hardware or software to make a contribution.**
- **Require out-of-State contributors that make donations to political candidates on an automatic basis to include a certified statement that the contributions are in full compliance with the Act.**
- **Require the Secretary of State to issue an interpretative statement upon refusing a request for a declaratory ruling.**
- **Require political advertising to indicate that it is paid for "with regulated funds".**

(The Act defines "contribution" as a payment, gift, subscription, assessment, expenditure, contract, payment for services, dues, advance, forbearance, loan, or donation of money or anything of ascertainable monetary value, or a transfer of anything of ascertainable monetary value to a person, made for the purpose of influencing the nomination or election of a candidate, or for the qualification, passage, or defeat of a ballot question. The Act elaborates on what a contribution does and does not include.)

Reporting Requirements

The bill requires a bundling committee to report to the Secretary of State (SOS), on a form provided by the SOS, all of the following information about each contribution delivered to the candidate committee of a candidate for Statewide elective office as all or part of a bundled contribution:

- The amount of each contribution, the date the bundling committee received it, and the candidate who is the intended recipient.
- Each contributor's name and address and, for each contribution exceeding \$100, the contributor's occupation, employer, and principal place of business.
- The date each contribution was delivered to the candidate committee.
- The total amount of bundled contributions delivered to that candidate committee during the reporting period and during the election cycle.

This report must be made for a reporting period in which the candidate committee receives a contribution that is to be part of a bundled contribution, or the reporting period in which a bundled contribution is delivered to the committee.

Under the bill, "statewide elective office" means the office of Governor, Lieutenant Governor, Secretary of State, Attorney General, Justice of the Supreme Court, member of the State Board of Education, regent of the University of Michigan, member of the board of trustees of Michigan State University, or member of the board of governors at Wayne State University, and does not include the office of State legislator.

A bundling committee also must deliver a report to the candidate committee of a candidate for Statewide elective office with its delivery of a bundled contribution. The report, which must be on a form provided by the SOS, must contain all of the information required above (except the date the contribution was delivered to the candidate committee) about each contribution delivered as part of a bundled contribution, and about all bundled contributions delivered to the committee in the election cycle.

For a reporting period in which the candidate committee of a candidate for Statewide elective office receives a bundled contribution, the candidate committee must submit to the SOS a report including all of the following information, as applicable:

- The amount of each contribution, the date the candidate committee received it, and the name of the bundling committee that delivered it.
- Each contributor's name and address and, for each contribution exceeding \$100, the contributor's occupation, employer, and principal place of business.
- The total amount of bundled contributions received by that candidate committee during the reporting period and during the election cycle.

Under the bill, "bundle" means for a bundling committee to deliver one or more contributions from individuals to the candidate committee of a candidate for Statewide elective office, without the money becoming money of the bundling committee. "Bundling committee" means an independent committee or political committee that makes an expenditure to solicit or collect from individuals contributions that are to be part of a bundled contribution, which expenditure is required to be reported as an in-kind expenditure (which the Act defines as an expenditure other than money) for a candidate for Statewide elective office.

(The Act defines "independent committee" as a committee, other than a political party committee, that before contributing to the candidate committee of a candidate for elective office files a statement of organization as an independent committee at least six months before an election for which it expects to accept contributions or make expenditures

in support of or in opposition to a candidate for nomination to or election to an elective office; and receives contributions from at least 25 persons and makes expenditures not to exceed the limitations of the Act in support of or in opposition to three or more candidates for nomination to or election to an elective office in the same calendar year. "Political committee" means a committee that is not a candidate committee, independent committee, or ballot question committee.)

Under the Act, a campaign statement filed by a political party committee must contain the full name of each person who contributes to the campaign, and list the occupation, employer, and principal place of business of anyone who contributes more than \$100. The bill requires a campaign statement also to include each contributor's address. ("Political party committee" means a State central, district, or county committee of a political party that is a committee. Each State central committee designates the official party county and district committees, of which there may not be more than one per county and per Congressional district.)

Limits on Bundled Contributions

Section 52 of the Act prohibits a person other than an independent committee or a political party committee from making contributions to candidate committees in excess of the following amounts with respect to an election cycle:

- \$3,400 for a candidate for State elective office other than the office of State legislator, or for a candidate for local elective office in a district with a population over 250,000.
- \$1,000 for a candidate for State Senator, or for a candidate for local elective office in a district with a population over 85,000 but not more than 250,000.
- \$500 for a candidate for State Representative, or for a candidate for local elective office in a district with a population of 85,000 or less.

Under Section 52, an independent committee or a political party committee other than a State central committee may make contributions to candidate committees that are, in aggregate for that election cycle, up to

10 times the amounts listed above. A State central committee of a political party may make contributions to the candidate committee of a candidate for State elective office (other than a candidate for the Legislature) that are up to 20 times the amounts listed above. A State central committee is limited to contributions that are up to 10 times the amounts listed above to candidate committees for candidates for State Senator, State Representative, or local elective office. There is no monetary limit on the amount that a House or Senate political party caucus committee may contribute to the candidate committee for a candidate for the office of State legislator, but the caucus committee may not pay a debt a candidate incurred while seeking nomination at a primary election in which the candidate was opposed, and it may not make a contribution or expenditure on behalf of a candidate who is seeking nomination at a primary election and is opposed.

Under the bill, the limitations on a political committee's or independent committee's contributions do not apply to contributions that are part of one or more bundled contributions that are delivered to the candidate committee of a candidate for Statewide elective office and that are attributable to the political committee or the independent committee (as described below). The bill prohibits a political committee from making bundled contributions to a candidate committee of a candidate for Statewide elective office, if the contributions are, in the aggregate for that election cycle, more than the amount permitted a person other than an independent committee or political party committee. Independent committees are prohibited from making bundled contributions that are, in the aggregate for the election cycle, more than 10 times the amount permitted a person who is not a political party committee or an independent committee.

Section 69 of the Act prohibits a person other than an independent committee or a political party committee from contributing more than \$3,400 in value for an election cycle to any candidate committee. An independent committee may make contributions to a candidate committee that are up to 10 times that amount, and a political party committee that is a State central committee may contribute up to \$750,000 to a candidate

committee. Under the bill, these limitations on an independent committee's or a political party committee's contributions to a candidate committee do not apply to bundled contributions delivered to the candidate committee of a candidate for Statewide elective office, and attributed to the political party committee or independent committee. The bill prohibits political party committees from making bundled contributions to the candidate committee of a candidate for Statewide elective office that, in the aggregate for that election cycle, are more than the amount permitted a person who is not a political party committee or an independent committee. The bill also prohibits an independent committee from making bundled contributions to the candidate committee of a candidate for Statewide elective office that, in the aggregate for that election cycle, are more than 10 times the amount permitted a person who is not a political party committee or an independent committee. (That is, the limits on bundled contributions to the candidate committee of a candidate for Statewide elective office are \$3,400 for a political party committee and \$34,000 for an independent committee.)

The bill states that a bundled contribution or a contribution delivered as part of a bundled contribution must be regarded for purposes of contribution limits as both a contribution attributable to the bundling committee that delivered the contribution and a contribution attributable to the individual making the contribution.

Out-of-State Contributions

Under the bill, a person may not accept, for purposes of supporting or opposing candidates for elective office, a contribution from a person whose treasurer does not reside in, whose principal office is not located in, or whose money is not kept in Michigan and who has received contributions on an automatic basis, including a payroll deduction plan, unless the contribution is accompanied by a statement, certified as true and correct by an officer of the contributing person, that all contributions received on an automatic basis are in full compliance with Section 55 of the Act.

(Section 55 allows the establishment of segregated funds for political purposes by a

for-profit or nonprofit corporation, joint stock company, domestic dependent sovereign, or labor organization. These entities may not establish such funds by using coercion or physical force, making a contribution a condition of employment or membership, or using or threatening to use job discrimination or financial reprisals. The entities may not solicit or obtain contributions on an automatic basis, such as a payroll deduction plan, unless the contributing individual affirmatively consents to the contribution at least once in every calendar year. Anyone who knowingly violates Section 55 is guilty of a felony punishable, if the person is an individual, by a maximum fine of \$5,000 and/or imprisonment for up to three years, or, if the person is not an individual, by a maximum fine of \$10,000. If a corporation, joint stock company, domestic dependent sovereign, or labor organization pays contributors to the segregated fund a bonus or other reimbursement for those contributions, then the entity is subject to a civil fine equal to two times the total contributions obtained from all individuals for the separate segregated fund during that calendar year.)

Declaratory Ruling

The Act requires the Secretary of State to respond to a request for a declaratory ruling if the person requesting it has provided a reasonably complete statement of facts necessary for the ruling. A request for a declaratory ruling must be made available to the public within 48 hours after the SOS receives it, after which an interested person has 10 business days to submit written comments. Within 45 business days after receiving the request, the SOS must make a proposed response available to the public, after which members of the public have five business days to submit written testimony on the response. The SOS then must issue a declaratory ruling within 60 business days after the request is received, or notify the person who made the request of the reasons for refusal of the request. Under the previous law, the SOS was permitted to issue an interpretative statement providing an informational response to the question presented. The bill now requires the SOS to issue an interpretative statement.

Political Advertising

Under the Act, a billboard, placard, poster, or other printed matter having reference to an election, a candidate, or a ballot question must bear upon it the name and address of the person paying for it. If the printed matter relating to a candidate is an independent expenditure that is not authorized in writing by the candidate committee of that candidate, it must contain a disclaimer stating, "Not authorized by any candidate committee". A radio or television advertisement having reference to an election, a candidate, or a ballot question must identify the sponsoring person, as required by the Federal Communications Commission, must bear the name of the person paying for it, and must bear a disclaimer stating that it either is not authorized by any candidate or is authorized by a certain candidate or candidate committee.

The bill provides that, except for a candidate committee's printed matter or radio or television paid advertisements, each identification or disclaimer required by these provisions also must indicate that the printed matter or paid advertisement is paid for "with regulated funds" (unless the printed matter or advertisement is not subject to the Act).

Public Bodies

The Act prohibits a public body or an individual acting for a public body from using or authorizing the use of funds, personnel, office space, property, stationery, postage, vehicles, equipment, supplies, or other public resources to make a contribution or expenditure or provide volunteer personal services, with some exceptions. The bill added computer hardware or software to the items that a public body may not use to make a contribution.

MCL 169.202 et al.

Legislative Analyst: Julie Koval

FISCAL IMPACT

The bill will have a minimal fiscal impact on the State. Increased enforcement and investigation activities by the Bureau of Elections may be necessary to verify the accuracy of campaign finance statements.

Additional form duplicating also might be necessary. According to the Department of State, \$189,455 was collected in FY 2000-01 in fines for violations of the Michigan Campaign Finance Act. The fine revenue resulted from 538 cases of late filing fees.

Fiscal Analyst: Jessica Runnels

S0102\s759es

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.