

# SENATE BILL No. 759

October 18, 2001, Introduced by Senators HAMMERSTROM, BENNETT, SIKKEMA, NORTH, BULLARD, GOSCHKA and JOHNSON and referred to the Committee on Government Operations.

A bill to amend 1976 PA 388, entitled "Michigan campaign finance act," by amending section 57 (MCL 169.257), as amended by 1996 PA 590, and by adding sections 58 and 59.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 57. (1) A public body or ~~an individual~~ A PERSON  
2 acting for a public body shall not use or ~~authorize~~ ALLOW the  
3 use of funds, personnel, office space, COMPUTER HARDWARE OR  
4 SOFTWARE, property, stationery, postage, vehicles, equipment,  
5 supplies, or other public resources ~~to make a contribution or~~  
6 ~~expenditure or provide volunteer personal services that are~~  
7 ~~excluded from the definition of contribution under section~~  
8 ~~4(3)(a)~~ IN ASSISTANCE OF OR OPPOSITION TO THE NOMINATION OR  
9 ELECTION OF A CANDIDATE OR THE QUALIFICATION, PASSAGE, OR DEFEAT  
10 OF A BALLOT QUESTION. ~~This subsection~~

SENATE BILL No. 759

1 (2) SUBSECTION (1) does not ~~apply to~~ PROHIBIT any of the  
2 following:

3 (a) The VERBAL expression of views, INCLUDING VIEWS ON A  
4 CANDIDATE OR A BALLOT QUESTION, by an elected or appointed public  
5 official who has policy making responsibilities. THIS SUBSECTION  
6 APPLIES ONLY TO A PUBLIC OFFICIAL EXPRESSING VIEWS AND DOES NOT  
7 ALLOW OR COMPEL OTHER EMPLOYEES OF A PUBLIC BODY TO USE WORK TIME  
8 OR OTHER PUBLIC RESOURCES TO HEAR THOSE VIEWS.

9 (b) The production or dissemination of ~~factual~~ information  
10 ~~concerning issues relevant to the function of the public body~~  
11 THAT DOES NOT EXPRESSLY ADVOCATE THE NOMINATION, ELECTION, OR  
12 DEFEAT OF A CANDIDATE OR THE QUALIFICATION, PASSAGE, OR DEFEAT OF  
13 A BALLOT QUESTION. A PUBLIC BODY SHALL NOT EXPRESSLY ADVOCATE BY  
14 PASSAGE OF A RESOLUTION OR ANOTHER MEANS OF COMMUNICATION THE  
15 NOMINATION, ELECTION, OR DEFEAT OF A CANDIDATE OR EXPRESSLY ADVO-  
16 CATE SUPPORT OR OPPOSITION TO THE QUALIFICATION, PASSAGE, OR  
17 DEFEAT OF A BALLOT QUESTION.

18 ~~(c) The production or dissemination of debates, interviews,~~  
19 ~~commentary, or information by a broadcasting station, newspaper,~~  
20 ~~magazine, or other periodical or publication in the regular~~  
21 ~~course of broadcasting or publication.~~

22 (C) ~~(d)~~ The use of a public facility owned or leased by,  
23 or on behalf of, a public body if any ~~candidate or committee~~  
24 PERSON has an equal opportunity to use the public facility.

25 (D) A COMMUNICATION THAT DESCRIBES OR BROADCASTS A MEETING  
26 COVERED BY THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO  
27 15.275, OR THAT ATTEMPTS TO INFORM THE PUBLIC BY PUBLISHING OR

1 BROADCASTING A DEBATE, A FORUM, A PROFILE, A STATEMENT, OR AN  
2 INTERVIEW IF EACH CANDIDATE OR VIEW ON A BALLOT QUESTION IS  
3 AFFORDED EQUAL ACCESS. FOR PURPOSES OF THIS SUBDIVISION, A  
4 PUBLIC BODY MAY LIMIT ACCESS TO THOSE CANDIDATES WHOSE NAMES WILL  
5 APPEAR ON THE BALLOT.

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

9 (f) An elected or appointed public official or an employee  
10 of a public body who, when not acting for a public body, ~~but is~~  
11 ~~on his or her own personal time, is expressing his or her own~~  
12 ~~personal views,~~ is expending his or her own personal funds, or  
13 is providing his or her own personal volunteer services.

14 ~~(2) A person who knowingly violates this section is guilty~~  
15 ~~of a misdemeanor punishable, if the person is an individual, by a~~  
16 ~~fine of not more than \$1,000.00 or imprisonment for not more than~~  
17 ~~1 year, or both, or if the person is not an individual, by 1 of~~  
18 ~~the following, whichever is greater.~~

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

20 ~~(b) A fine equal to the amount of the improper contribution~~  
21 ~~or expenditure.~~

22 SEC. 58. (1) A NONPROFIT CORPORATION THAT RECEIVES MONEY  
23 FROM A PUBLIC BODY OR A PERSON ACTING ON BEHALF OF A PUBLIC BODY  
24 AS MEMBERSHIP FEES, DUES, OR FOR ANOTHER REASON OTHER THAN THE  
25 COMPENSATION FOR SPECIFIC GOODS OR SERVICES SHALL NOT USE THE  
26 MONEY OR INVESTMENT INCOME DERIVED FROM THE MONEY TO INFLUENCE  
27 THE OUTCOME OF AN ELECTION HELD IN THIS STATE. A NONPROFIT

1 CORPORATION MAY USE MONEY OBTAINED FROM A PUBLIC BODY FOR THE  
2 PERFORMANCE OF A SPECIFIC SERVICE OR SALE OF GOODS OR INVESTMENT  
3 INCOME DERIVED FROM MONEY OBTAINED FOR THE PERFORMANCE OF A SPE-  
4 CIFIC SERVICE OR SALE OF GOODS TO INFLUENCE THE OUTCOME OF A  
5 BALLOT QUESTION IF BOTH OF THE FOLLOWING ARE TRUE:

6 (A) THE CHARGE FOR THE SPECIFIC SERVICE OR GOODS IS UNIFORM  
7 FOR ALL PUBLIC BODIES AND IS NOT BASED ON THE SIZE OF THE PUBLIC  
8 BODY, THE NUMBER OF EMPLOYEES WORKING FOR THE PUBLIC BODY, THE  
9 ANNUAL INCOME OF THE PUBLIC BODY, OR SIMILAR CRITERIA. FOR A  
10 SEMINAR OR OTHER PROGRAM, THE CHARGE IS UNIFORM FOR ALL PUBLIC  
11 BODIES IF EACH INDIVIDUAL ATTENDING THE SEMINAR OR PROGRAM ON  
12 BEHALF OF A PUBLIC BODY IS CHARGED AN IDENTICAL SUM TO PARTICI-  
13 PATE IN THE SEMINAR OR PROGRAM.

14 (B) THE NONPROFIT CORPORATION DOES NOT ADVERTISE OR PROMOTE  
15 THE SERVICE OR GOODS AS A MEANS FOR THE NONPROFIT CORPORATION TO  
16 RECEIVE MONEY FROM A PUBLIC BODY THAT MAY BE USED BY THE NON-  
17 PROFIT CORPORATION TO INFLUENCE THE OUTCOME OF A BALLOT  
18 QUESTION.

19 (2) A PUBLIC BODY OR A PERSON ACTING ON BEHALF OF A PUBLIC  
20 BODY SHALL NOT PURCHASE A SERVICE OR GOODS FROM A NONPROFIT COR-  
21 PORATION IF THE REASON FOR THE PURCHASE, IN WHOLE OR IN PART, IS  
22 TO PROVIDE MONEY TO THAT NONPROFIT CORPORATION FOR USE TO INFLU-  
23 ENCE THE OUTCOME OF A BALLOT QUESTION.

24 (3) A NONPROFIT CORPORATION SHALL PLACE IN A SEGREGATED  
25 ACCOUNT MONEY RECEIVED FROM A PUBLIC BODY OR A PERSON ACTING ON  
26 BEHALF OF A PUBLIC BODY THAT IS NOT PERMITTED UNDER THIS SECTION  
27 TO BE USED TO INFLUENCE THE OUTCOME OF A BALLOT QUESTION. MONEY

1 PLACED IN A SEGREGATED ACCOUNT THAT IS NOT PERMITTED TO BE USED  
2 TO INFLUENCE THE OUTCOME OF A BALLOT QUESTION SHALL NOT BE COM-  
3 MINGLED WITH MONEY THAT IS PERMITTED TO BE USED TO INFLUENCE THE  
4 OUTCOME OF A BALLOT QUESTION. A NONPROFIT CORPORATION THAT COM-  
5 MINGLES IN A SINGLE ACCOUNT MONEY THAT IS PERMITTED TO BE USED  
6 AND MONEY THAT IS NOT PERMITTED TO BE USED TO INFLUENCE THE OUT-  
7 COME OF A BALLOT QUESTION IS PROHIBITED FROM USING ANY PORTION OF  
8 THAT MONEY TO INFLUENCE THE OUTCOME OF A BALLOT QUESTION.

9 SEC. 59. (1) A PERSON WHO KNOWINGLY VIOLATES A PROVISION OF  
10 SECTION 57 OR 58 IS GUILTY OF A MISDEMEANOR PUNISHABLE AS  
11 FOLLOWS:

12 (A) IF THE PERSON IS AN INDIVIDUAL, BY A FINE OF NOT MORE  
13 THAN \$1,000.00 OR TWICE THE VALUE OF THE IMPROPER CONTRIBUTION OR  
14 EXPENDITURE, WHICHEVER IS GREATER, OR IMPRISONMENT FOR NOT MORE  
15 THAN 1 YEAR, OR BOTH.

16 (B) IF THE PERSON IS NOT AN INDIVIDUAL, BY A FINE OF NOT  
17 MORE THAN \$20,000.00 OR TWICE THE VALUE OF THE IMPROPER CONTRIBU-  
18 TION OR EXPENDITURE, WHICHEVER IS GREATER.

19 (2) NOTWITHSTANDING THE PROVISIONS OF SECTION 15(6), A  
20 PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO A FINE BY THE SEC-  
21 RETARY OF STATE. THE FINE SHALL NOT EXCEED \$20,000.00 IN ADDI-  
22 TION TO THE COST OF THE ILLEGAL CONTRIBUTION OR EXPENDITURE.

23 (3) NOTWITHSTANDING THE PROVISIONS OF SECTION 15(9), A  
24 PERSON RESIDING WITHIN THE GEOGRAPHICAL BOUNDARIES OF THE PUBLIC  
25 BODY ALLEGING A VIOLATION OF SECTION 57 OR 58 MAY BRING A CIVIL  
26 ACTION FOR DECLARATORY JUDGMENT OR INJUNCTIVE RELIEF AGAINST THE  
27 PUBLIC BODY OR A PERSON ACTING ON BEHALF OF THE PUBLIC BODY. AN

1 ACTION COMMENCED UNDER THIS SUBSECTION SHALL BE BROUGHT IN THE  
2 CIRCUIT COURT FOR THE COUNTY WHERE THE PUBLIC BODY HAS ITS PRIN-  
3 CIPAL PLACE OF BUSINESS. THE PERSON ALLEGING A VIOLATION NEED  
4 NOT PROVE THAT THE VIOLATION WAS KNOWING IN ORDER TO PREVAIL.

5 (4) A PERSON COMMENCING A CIVIL ACTION UNDER SUBSECTION (3),  
6 IF PREVAILING IN WHOLE OR IN PART, SHALL BE AWARDED ALL OR AN  
7 APPROPRIATE PORTION OF REASONABLE ATTORNEY FEES AND COSTS.

8 (5) A CIVIL ACTION COMMENCED UNDER SUBSECTION (3) SHALL BE  
9 EXPEDITED AND ASSIGNED FOR HEARING, TRIAL, OR ARGUMENT AT THE  
10 EARLIEST POSSIBLE DATE.

11 Enacting section 1. It is the policy of this state that a  
12 public body shall maintain strict neutrality in each election and  
13 that a public body or a person acting on behalf of a public body  
14 shall not attempt to influence the outcome of an election held in  
15 this state. If there is a perceived ambiguity in the interpreta-  
16 tion of this section, this section shall be construed to best  
17 effectuate the policy of strict neutrality by a public body in an  
18 election.