

HOUSE BILL No. 6128

June 1, 2006, Introduced by Reps. Ward, Taub, Sheltroun, Schuitmaker, Elsenheimer, Stahl, Proos, Mortimer, Ball, Nitz and Kooiman and referred to the Committee on House Oversight, Elections, and Ethics.

A bill to amend 1976 PA 388, entitled "Michigan campaign finance act," by amending sections 5, 6, 11, and 54 (MCL 169.205, 169.206, 169.211, and 169.254), section 5 as amended by 1999 PA 237, section 6 as amended by 2003 PA 69, section 11 as amended by 1996 PA 590, and section 54 as amended by 1995 PA 264, and by adding sections 40, 52b, and 53a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5. (1) "Domestic dependent sovereign" means an Indian
2 tribe that has been acknowledged, recognized, restored, or
3 reaffirmed as an Indian tribe by the secretary of the interior
4 ~~pursuant to chapter 576, 48 Stat. 984, 25 U.S.C.~~ **UNDER THE INDIAN**
5 **REORGANIZATION ACT, 25 USC** 461 to 463, 464 to 465, 466 to 470, 471

1 to 472, 473, 474 to 475, 476 to 478, and 479, ~~commonly referred to~~
2 ~~as the Indian reorganization act,~~ or has otherwise been
3 acknowledged by the United States government as an Indian tribe.

4 (2) "Election" means a primary, general, special, or millage
5 election held in this state or a convention or caucus of a
6 political party held in this state to nominate a candidate.
7 Election includes a recall vote.

8 (3) "Election cycle" means 1 of the following:

9 (a) For a general election, the period beginning the day
10 following the last general election in which the office appeared on
11 the ballot and ending on the day of the general election in which
12 the office next appears on the ballot.

13 (b) For a special election, the period beginning the day a
14 special general election is called or the date the office becomes
15 vacant, whichever is earlier, and ending on the day of the special
16 general election.

17 (4) **"ELECTIONEERING COMMUNICATION" MEANS, SUBJECT TO**
18 **SUBSECTION (5), A COMMUNICATION TO WHICH ALL OF THE FOLLOWING**
19 **APPLY:**

20 (A) **THE COMMUNICATION REFERS TO A CLEARLY IDENTIFIED**
21 **CANDIDATE.**

22 (B) **THE COMMUNICATION IS MADE WITHIN 30 DAYS BEFORE A PRIMARY**
23 **ELECTION OR A CONVENTION OR CAUCUS OF A POLITICAL PARTY THAT HAS**
24 **AUTHORITY TO NOMINATE A CANDIDATE OR WITHIN 60 DAYS BEFORE A**
25 **GENERAL ELECTION.**

26 (5) **ELECTIONEERING COMMUNICATION DOES NOT INCLUDE THE**
27 **FOLLOWING:**

1 (A) A COMMUNICATION IN A NEWS STORY, COMMENTARY, OR EDITORIAL
2 DISTRIBUTED THROUGH THE FACILITIES OF A BROADCASTING STATION,
3 UNLESS THE FACILITIES ARE OWNED OR CONTROLLED BY A CANDIDATE OR A
4 COMMITTEE, OTHER THAN AN INDEPENDENT COMMITTEE OR A BALLOT QUESTION
5 COMMITTEE.

6 (B) A COMMUNICATION THAT IS AN EXPENDITURE OR AN INDEPENDENT
7 EXPENDITURE.

8 (C) A COMMUNICATION IN A CANDIDATE DEBATE OR FORUM CONDUCTED
9 PURSUANT TO RULES ADOPTED BY THE SECRETARY OF STATE OR THAT SOLELY
10 PROMOTES SUCH A DEBATE OR FORUM AND IS MADE BY OR ON BEHALF OF THE
11 PERSON SPONSORING THE DEBATE OR FORUM.

12 (6) ~~-(4)-~~ "Elective office" means a public office filled by an
13 election. A person who is appointed to fill a vacancy in a public
14 office that is ordinarily elective holds an elective office.
15 Elective office does not include the office of precinct delegate.
16 Except for the purposes of sections 47, 54, and 55, elective office
17 does not include a school board member in a school district that
18 has a pupil membership of 2,400 or less enrolled on the most recent
19 pupil membership count day. However, elective office includes a
20 school board member in a school district that has a pupil
21 membership of 2,400 or less ~~—~~ if a candidate committee of a
22 candidate for the office of school board member in that school
23 district receives an amount in excess of \$1,000.00 or expends an
24 amount in excess of \$1,000.00. Elective office does not include a
25 federal office except for the purposes of section 57.

26 Sec. 6. (1) "Expenditure" means a payment, donation, loan, or
27 promise of payment of money or anything of ascertainable monetary

1 value for goods, materials, services, or facilities in assistance
 2 of, or in opposition to, the nomination or election of a candidate,
 3 or the qualification, passage, or defeat of a ballot question.

4 Expenditure includes, but is not limited to, any of the following:

5 (a) A contribution or a transfer of anything of ascertainable
 6 monetary value for purposes of influencing the nomination or
 7 election of a candidate or the qualification, passage, or defeat of
 8 a ballot question.

9 (b) Except as provided in subsection ~~-(2)(f) or (g)-~~ **(2)(E) OR**
 10 **(F)**, an expenditure for voter registration or get-out-the-vote
 11 activities made by a person who sponsors or finances the activity
 12 or who is identified by name with the activity.

13 (c) Except as provided in subsection ~~-(2)(f) or (g)-~~ **(2)(E) OR**
 14 **(F)**, an expenditure made for poll watchers, challengers,
 15 distribution of election day literature, canvassing of voters to
 16 get out the vote, or transporting voters to the polls.

17 (2) Expenditure does not include any of the following:

18 (a) An expenditure for communication by a person with the
 19 person's paid members or shareholders and those individuals who can
 20 be solicited for contributions to a separate segregated fund under
 21 section 55.

22 ~~—— (b) An expenditure for communication on a subject or issue if~~
 23 ~~the communication does not support or oppose a ballot question or~~
 24 ~~candidate by name or clear inference.~~

25 **(B)** ~~-(e)-~~ An expenditure for the establishment,
 26 administration, or solicitation of contributions to a separate
 27 segregated fund or independent committee.

1 (C) ~~-(d)-~~ An expenditure by a broadcasting station, newspaper,
2 magazine, or other periodical or publication for a news story,
3 commentary, or editorial in support of or opposition to a candidate
4 for elective office or a ballot question in the regular course of
5 publication or broadcasting.

6 (D) ~~-(e)-~~ An offer or tender of an expenditure if expressly
7 and unconditionally rejected or returned.

8 (E) ~~-(f)-~~ An expenditure for nonpartisan voter registration or
9 nonpartisan get-out-the-vote activities made by an organization
10 that is exempt from federal income tax pursuant to section
11 501(c)(3) of the internal revenue code of 1986, 26 ~~U.S.C.~~ **USC**
12 501, or any successor statute.

13 (F) ~~-(g)-~~ An expenditure for nonpartisan voter registration or
14 nonpartisan get-out-the-vote activities performed pursuant to
15 chapter XXIII of the Michigan election law, 1954 PA 116, MCL
16 168.491 to 168.524, by the secretary of state and other
17 registration officials who are identified by name with the
18 activity.

19 (G) ~~-(h)-~~ An expenditure by a state central committee of a
20 political party or a person controlled by a state central committee
21 of a political party for the construction, purchase, or renovation
22 of 1 or more office facilities in Ingham county if the facility is
23 not constructed, purchased, or renovated for the purpose of
24 influencing the election of a candidate in a particular election.
25 Items excluded from the definition of expenditure under this
26 subdivision include expenditures approved in federal election
27 commission advisory opinions 1993-9, 2001-1, and 2001-12 as

1 allowable expenditures under the federal election campaign act of
2 1971, Public Law 92-225, ~~2 U.S.C. 431 to 434, 437, 437e to 439a,~~
3 ~~439e, 441a to 441h, and 442 to 455,~~ and regulations promulgated
4 under that act, regardless of whether those advisory opinions have
5 been superseded.

6 Sec. 11. (1) "Person" means a business, individual,
7 proprietorship, firm, partnership, joint venture, syndicate,
8 business trust, labor organization, company, corporation,
9 association, committee, **ORGANIZATION THAT CLAIMS TAX-EXEMPT STATUS**
10 **UNDER SECTION 527 OF THE INTERNAL REVENUE CODE, 26 USC 527,** or any
11 other organization or group of persons acting jointly.

12 (2) "Political committee" means a committee that is not a
13 candidate committee, political party committee, independent
14 committee, or ballot question committee.

15 (3) "Political merchandise" means goods such as bumper
16 stickers, pins, hats, beverages, literature, or other items sold by
17 a person at a fund raiser or to the general public for publicity or
18 for the purpose of raising funds to be used in supporting or
19 opposing a candidate for nomination for or election to an elective
20 office or in supporting or opposing the qualification, passage, or
21 defeat of a ballot question.

22 (4) "Political party" means a political party ~~which~~ **THAT** has
23 a right under law to have the names of its candidates listed on the
24 ballot in a general election.

25 (5) "Political party committee" means a state central,
26 district, or county committee of a political party ~~which~~ **THAT** is
27 a committee. Each state central committee shall designate the

1 official party county and district committees. There shall not be
2 more than 1 officially designated political party committee per
3 county and per congressional district.

4 (6) "Public body" means 1 or more of the following:

5 (a) A state agency, department, division, bureau, board,
6 commission, council, authority, or other body in the executive
7 branch of state government.

8 (b) The legislature or an agency, board, commission, or
9 council in the legislative branch of state government.

10 (c) A county, city, township, village, intercounty, intercity,
11 or regional governing body; a council, school district, special
12 district, or municipal corporation; or a board, department,
13 commission, or council or an agency of a board, department,
14 commission, or council.

15 (d) Any other body that is created by state or local authority
16 or is primarily funded by or through state or local authority,
17 which body exercises governmental or proprietary authority or
18 performs a governmental or proprietary function.

19 **SEC. 40. (1) A PERSON SHALL NOT RECEIVE A CONTRIBUTION OR MAKE**
20 **A CONTRIBUTION TO A COMMITTEE IF THE CONTRIBUTION IS MADE IN**
21 **EXCHANGE FOR MONEY FROM A CORPORATION, LABOR ORGANIZATION, OR**
22 **DOMESTIC DEPENDENT SOVEREIGN.**

23 **(2) A CORPORATION, LABOR ORGANIZATION, OR DOMESTIC DEPENDENT**
24 **SOVEREIGN SHALL NOT MAKE A DONATION, PAYMENT, OR TRANSFER OF MONEY**
25 **OR ANYTHING OF VALUE, AND A PERSON SHALL NOT MAKE A DONATION,**
26 **PAYMENT, OR TRANSFER FROM A FINANCIAL INSTITUTION ACCOUNT THAT**
27 **CONTAINS MONEY OF A CORPORATION, LABOR ORGANIZATION, OR DOMESTIC**

1 DEPENDENT SOVEREIGN, TO A PERSON WITH THE UNDERSTANDING, AGREEMENT,
2 OR ARRANGEMENT THAT THE PERSON WILL INDUCE AN INDEPENDENT
3 EXPENDITURE OR A CONTRIBUTION TO A COMMITTEE.

4 (3) A PERSON SHALL NOT RECEIVE A CONTRIBUTION THAT WAS
5 OBTAINED AS A RESULT OF A DONATION, PAYMENT, OR TRANSFER OF MONEY
6 OR ANYTHING OF VALUE BY A CORPORATION, LABOR ORGANIZATION, OR
7 DOMESTIC DEPENDENT SOVEREIGN, OR BY A PERSON WHO MADE THE DONATION,
8 PAYMENT, OR TRANSFER FROM A FINANCIAL INSTITUTION ACCOUNT THAT
9 CONTAINS MONEY OF A CORPORATION, LABOR ORGANIZATION, OR DOMESTIC
10 DEPENDENT SOVEREIGN.

11 (4) A PERSON SHALL NOT ARRANGE FOR A CORPORATION, LABOR
12 ORGANIZATION, OR DOMESTIC DEPENDENT SOVEREIGN TO MAKE A DONATION,
13 PAYMENT, OR TRANSFER OF MONEY OR ANYTHING OF VALUE, OR FOR A PERSON
14 TO MAKE A DONATION, PAYMENT, OR TRANSFER FROM A FINANCIAL
15 INSTITUTION ACCOUNT THAT CONTAINS MONEY OF A CORPORATION, LABOR
16 ORGANIZATION, OR DOMESTIC DEPENDENT SOVEREIGN, TO A PERSON FOR THE
17 PURPOSE OF INDUCING AN INDEPENDENT EXPENDITURE OR A CONTRIBUTION TO
18 A COMMITTEE.

19 (5) THIS SECTION DOES NOT APPLY TO A DONATION, PAYMENT, OR
20 TRANSFER OF MONEY OR ANYTHING OF VALUE BY A CORPORATION, LABOR
21 ORGANIZATION, OR DOMESTIC DEPENDENT SOVEREIGN TO A CHARITY TO MATCH
22 AN AMOUNT CONTRIBUTED TO THE SEPARATE SEGREGATED FUND OF THE
23 CORPORATION, LABOR ORGANIZATION, OR DOMESTIC DEPENDENT SOVEREIGN BY
24 AN INDIVIDUAL WHO IS ALLOWED TO BE SOLICITED FOR CONTRIBUTIONS TO
25 THE SEPARATE SEGREGATED FUND UNDER SECTION 55.

26 (6) A PERSON WHO KNOWINGLY VIOLATES THIS SECTION IS GUILTY OF
27 A FELONY PUNISHABLE, IF THE PERSON IS AN INDIVIDUAL, BY

1 IMPRISONMENT FOR NOT MORE THAN 3 YEARS OR A FINE OF NOT MORE THAN
2 \$5,000.00, OR BOTH, OR, IF THE PERSON IS NOT AN INDIVIDUAL, BY A
3 FINE OF NOT MORE THAN \$10,000.00.

4 SEC. 52B. (1) A PERSON SHALL NOT MAKE CONTRIBUTIONS TO A
5 POLITICAL PARTY COMMITTEE THAT EXCEED \$50,000.00 IN A CALENDAR
6 YEAR. A POLITICAL PARTY COMMITTEE OR A TREASURER OR AGENT OF THE
7 COMMITTEE SHALL NOT ACCEPT A CONTRIBUTION WITH RESPECT TO AN
8 ELECTION CYCLE THAT EXCEEDS THE LIMITATION IN THIS SECTION.

9 (2) A PERSON WHO KNOWINGLY VIOLATES THIS SECTION IS GUILTY OF
10 A MISDEMEANOR PUNISHABLE, IF THE PERSON IS AN INDIVIDUAL, BY
11 IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR A FINE OF NOT MORE THAN
12 \$1,000.00, OR BOTH, OR, IF THE PERSON IS NOT AN INDIVIDUAL, BY A
13 FINE OF NOT MORE THAN \$10,000.00.

14 SEC. 53A. AN ORGANIZATION THAT CLAIMS TAX-EXEMPT STATUS UNDER
15 SECTION 527 OF THE INTERNAL REVENUE CODE, 26 USC 527, SHALL NOT
16 MAKE A CONTRIBUTION OR AN EXPENDITURE FOR AN ELECTIONEERING
17 COMMUNICATION.

18 Sec. 54. (1) Except ~~with respect to the exceptions and~~
19 ~~conditions~~ AS PROVIDED in subsections (2) and (3) and section 55,
20 and ~~to~~ EXCEPT FOR loans made in the ordinary course of business,
21 a corporation, joint stock company, domestic dependent sovereign,
22 or labor organization shall not make a contribution or expenditure,
23 INCLUDING, BUT NOT LIMITED TO, A CONTRIBUTION OR EXPENDITURE FOR AN
24 ELECTIONEERING COMMUNICATION, or provide volunteer personal
25 services that are excluded from the definition of a contribution
26 ~~pursuant to~~ UNDER section 4(3)(a).

27 (2) An officer, director, stockholder, attorney, agent, or

1 ~~any other~~ **ANOTHER** person acting for a labor organization, a
2 domestic dependent sovereign, or a corporation or joint stock
3 company, whether incorporated under the laws of this or any other
4 state or foreign country, except corporations formed for political
5 purposes, shall not make a contribution or expenditure or provide
6 volunteer personal services that are excluded from the definition
7 of a contribution ~~pursuant to~~ **UNDER** section 4(3)(a).

8 (3) A corporation, joint stock company, domestic dependent
9 sovereign, or labor organization may make a contribution to a
10 ballot question committee subject to this act. A corporation, joint
11 stock company, domestic dependent sovereign, or labor organization
12 may make an independent expenditure in any amount for the
13 qualification, passage, or defeat of a ballot question. A
14 corporation, joint stock company, domestic dependent sovereign, or
15 labor organization that makes an independent expenditure under this
16 subsection is considered a ballot question committee for the
17 purposes of this act.

18 (4) A person who knowingly violates this section is guilty of
19 a felony punishable, if the person is an individual, by a fine of
20 not more than \$5,000.00 or imprisonment for not more than 3 years,
21 or both, or, if the person is not an individual, by a fine of not
22 more than \$10,000.00.

23 Enacting section 1. This amendatory act takes effect January
24 31, 2007.