

# Legislative Analysis

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## PROHIBIT CANDIDATE FINANCIAL SOLICITATIONS IN STATE AND LOCAL FACILITIES

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House Bill 4382 as passed by the Senate  
Sponsor: Rep. Dan Scripps  
House Committee: Ethics and Elections  
Senate Committee: Campaign and Election Oversight

### Second Analysis (7-15-10)

**BRIEF SUMMARY:** House Bill 4382 would prohibit candidate financial solicitations in state facilities, and also in facilities owned by other "public bodies" (which includes local government and school facilities).

**FISCAL IMPACT:** The bill would have an indeterminate, but likely negligible, fiscal impact. Any fiscal impact would be the result of the number of violations under the provisions of the bill. Any fine revenue collected for violations of the provisions of this bill would be dedicated to public libraries.

### **THE APPARENT PROBLEM:**

In order to ensure that the authority and influence of elected officials is applied in a way that checks personal gain and ensures the public good, state election and campaign finance laws generally impose limits on campaign contributions and solicitation--both for certain people and in certain places.

Although the term "solicitation" is not defined in the Michigan Campaign Finance Act, that term as it is generally used in federal, state, and local government campaign finance acts and ethics codes, refers to the practice of asking a person for a contribution to a political campaign.

A contribution can be many things: a loan; any forgiveness of a debt; any expenditure made at the request of a candidate; any purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events; services rendered without full compensation; or any granting of a rebate or discount not generally available to the public. (See **Background Information.**)

It is customary that ethics codes prohibit elected officials from soliciting contributions from the civil servants employed in the governments in which they serve. For example, the U.S. House of Representatives Ethics Manual prohibits the knowing solicitation of federal employees, as well as the solicitation of contributions in House offices, rooms, or buildings. Likewise, the Rules of the Michigan House of Representatives prohibit the use of House facilities for raising funds. Specifically, a portion of Rule 74 concerning Personal Privilege and Conduct reads: (5) *A Member shall not solicit or accept any type*

*of campaign contribution in any House facility or building. (See **Background Information.**)*

Legislation has been introduced that would place the House Ethics Rules into state law; apply that law to all state elected officials; and ban the solicitation of campaign contributions in all state offices.

### **THE CONTENT OF THE BILL:**

House Bill 4382 would amend the Michigan Campaign Finance Act to prohibit candidate financial solicitations in state facilities.

Specifically, the bill prohibits a candidate, or a person from soliciting or accepting a contribution in a facility owned or leased by (or on behalf of) the state or a public body (defined later), or otherwise utilize the resources of a public body to solicit or accept a contribution. However, this prohibition would not apply to a facility owned or leased by (or on behalf of) the state or a public body if that facility was primarily used as a family dwelling and was not used to conduct a fund-raising event; nor would it apply in a facility owned or leased by (or on behalf of) the state or a public body if any candidate had an equal opportunity to use the facility.

A person who violated this section of the act 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. Or, if the person is not an individual, by a fine of not more than \$20,000 or the amount of the contribution or expenditure, whichever is less.

MCL 169.201 et al

\*\* Under the Campaign Finance Act, "public body" means one or more of the following:

\*A state agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of state government.

\*The legislature or an agency, board, commission, or council in the legislative branch of state government.

\*A county, city, township, village, inter-county, intercity, or regional governing body; a council, school district, special district, or municipal corporation; or a board, department commission, or council, or an agency of a board, department, commission, or council.

\*Any other body that is created by state or local authority or is primarily funded by or through state or local authority, and that exercises governmental or proprietary authority or performs a governmental or proprietary function.

## **BACKGROUND INFORMATION:**

Definition of Contribution. The Michigan Campaign Finance Act has a lengthy definition of "contribution" at MCL 169.204. It reads:

*Sec. 4.*

*(1) "Contribution" means 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.*

*(2) Contribution includes the full purchase price of tickets or payment of an attendance fee for events such as dinners, luncheons, rallies, testimonials, and other fund-raising events; an individual's own money or property other than the individual's homestead used on behalf of that individual's candidacy; the granting of discounts or rebates not available to the general public; or the granting of discounts or rebates by broadcast media and newspapers not extended on an equal basis to all candidates for the same office; and the endorsing or guaranteeing of a loan for the amount the endorser or guarantor is liable.*

*(3) Contribution does not include any of the following:*

*(a) Volunteer personal services provided without compensation, or payments of costs incurred of less than \$500.00 in a calendar year by an individual for personal travel expenses if the costs are voluntarily incurred without any understanding or agreement that the costs shall be, directly or indirectly, repaid.*

*(b) Food and beverages, not to exceed \$100.00 in value during a calendar year, which are donated by an individual and for which reimbursement is not given.*

*(c) An offer or tender of a contribution if expressly and unconditionally rejected, returned, or refunded in whole or in part within 30 business days after receipt.*

Michigan House of Representatives Rules. Rule 74(5) of the House currently prohibits a member from soliciting or accepting any type of campaign contribution in any House facility or building.

## **ARGUMENTS:**

**For:**

Currently the Rules of the Michigan House of Representatives prohibit House members from soliciting campaign funds in House facilities [in House Rule 74(5)]. That rule should apply to all state elected officials, and it should be extended to all state facilities. Further, the prohibition should be enacted as state law, and there should be a penalty for violation of that law.

For elected officials, running for office is a separate and distinct function from governing while in office. The first function--running for office--requires a campaign funded by citizens and generally supportive groups (sometimes called special interest groups). As campaigns have increased in cost over the past two decades, campaign fundraising is now an everyday part of an elected official's work. However, that fundraising should not be done in state facilities, because on-site fundraising could facilitate (or could be perceived to facilitate) the direct purchase of legislators' votes by influential special interest groups or individuals.

In order to heighten citizen trust in governing officials, citizens should know that the state buildings they own and operate are not used for the purpose of political fundraising.

***Against:***

This is a good bill, but it should be amended to remove the limited exemption that would allow for the solicitation of campaign funds (although not on-site fundraising events), in the homes of the governor or of university presidents where state officials live with their families in official residences paid for by the state taxpayers.

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