

Legislative Analysis



CAMPAIGN FINANCE ACT AMENDMENTS

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House Bill 6182

Sponsor: Rep. Ellen Cogen Lipton

House Bill 6183

Sponsor: Rep. Dan Scripps

House Bill 6184

Sponsor: Rep. Fred Miller

House Bill 6185

Sponsor: Rep. Timothy Bledsoe

House Bill 6186

Sponsor: Rep. Jennifer Haase

House Bill 6187

Sponsor: Rep. Rashida Tlaib

House Bill 6188

Sponsor: Rep. Pam Byrnes

Committee: Ethics and Elections

Complete to 5-24-10

A REVISED SUMMARY OF HOUSE BILLS 6182 - 6188 AS INTRODUCED 5-18-10

The bills would amend various sections of the Michigan Campaign Finance Act to regulate--by requiring reports of, disclaimers for, and in some instances prohibiting--corporate and labor union independent expenditures during election campaigns.

House Bill 6188 is tie-barred to House Bills 6182, 6183, 6185, and 6186 so that it could not go into effect unless those bills were also enacted into law. A more detailed description of each bill follows.

House Bill 6182 would amend the Michigan Campaign Finance Act (MCL 169.55g) to require that a corporation, joint stock company, domestic dependent sovereign, or labor organization that makes an independent expenditure advocating the election or defeat of a candidate comply with all applicable sections of the act.

House Bill 6183 would amend the Michigan Campaign Finance Act (MCL 169.55a) to require certain reports and disclaimers when corporations make independent expenditures. The bill requires that a corporation or joint stock company that makes an independent expenditure submit a report to the Secretary of State at least five days before the date of the expenditure. That report would have to be submitted electronically over the internet, in the manner prescribed by the Secretary of State, and be immediately posted on the Secretary of State's website. The report would include the dates of the expenditure, the candidate to whom the communication funded by the expenditure refers, the amount of the expenditure, the name and address of the person to whom the expenditure would be paid, the name and address of the person filing the report, and the names and addresses of the five highest contributors to the expenditure.

Further, the bill requires that a corporation or joint stock company that made an independent expenditure place one of the following disclaimers on the communication:

(A) *Printed communication disclaimers* would have to state: "Paid for with corporate funds by _____ (name and address of corporation or joint stock company)" and include the name and photograph of the president of that corporation or joint stock company. The disclaimer would have to be of sufficient type size to be clearly readable, be contained in a printed box set apart from the other content of the communication, and be legible.

(B) *Electronic communication disclaimers* would have to comply with (A) above, and be clearly readable during the entire broadcast of the advertisement. Under the bill, electronic communication would include any electronic means of visual communication, such as television and the internet.

(C) *Radio communication disclaimers* would have to include the voice of the president of the corporation or joint stock company making the statement in (A) above, and identifying himself or herself as the president of the corporation or joint stock company.

House Bill 6183 would amend the Michigan Campaign Finance Act (MCL 169.55b) to require that the shareholders of corporations have disclosed to them, and approve, independent expenditures to election campaigns.

The bill would prohibit a corporation or joint stock company from making an independent expenditure unless it disclosed the amount and nature of the expenditure to each shareholder or member at least 30 days before the expenditure was made, and a majority of the shareholders or member consented to the expenditure in advance. Under the bill, a corporation or joint stock company would be required to maintain records demonstrating compliance with this requirement, and those records would have to be promptly provided to any Michigan elector who requested them.

House Bill 6184 would amend the Michigan Campaign Finance Act (MCL 169.55c) to prohibit certain independent expenditures by corporations.

The bill would prohibit a corporation or joint stock company that had entered into a contract with the State of Michigan (or any political subdivision of the state), that had received a grant funded in whole or in part by the state (or any political subdivision), or that had received a tax incentive or tax credit from the state (or any political subdivision), from making an independent expenditure until that contract, grant, incentive, or credit had expired.

Further, a corporation or joint stock company that had applied for, submitted a bid for, or requested a contract, grant, or tax incentive or credit (or any renewal or extension), would be prohibited from making an independent expenditure while that application, bid, or request was pending.

In addition, a corporation or joint stock company that accepted federal financial assistance under the federal Troubled Asset Relief Program (TARP), or any similar

federal program, would be prohibited from making an independent expenditure until it repaid any federal financial assistance received from that program. (Under the bill, "Troubled Asset Relief Program" would mean the Troubled Asset Relief Program established under 12 USC 5211.)

Finally, an electric utility, natural gas utility, or an insurer would be prohibited from making an independent expenditure. (Under the bill, an "electric utility" would mean that term as defined in Section 2 of the Electric Transmission Line Certification Act, 1995 PA 30, MCL 460.562. An "insurer" would mean that term as defined in Section 106 of the Insurance Code on 1956, 1956 PA 218, MCL 500.106. "Natural gas utility would mean that term as defined in Section 9 of 1939 PA 3, MCL 460.9.)

House Bill 6186 would amend the Michigan Campaign Finance Act (MCL 169.55d) to prohibit campaign contributions by foreign corporations.

More specifically, the bill would prohibit independent expenditures from a corporation or joint stock company incorporated in a foreign country; from a subsidiary of a corporation or joint stock company incorporated in a foreign county; from the recipient of any financing or subsidy from a source in a foreign county; from a corporation having a shareholder or individual member who is not a United States citizen, or from a corporation having a corporate officer who is not a United States citizen.

In addition, the bill would prohibit a person from making an independent expenditure using money that the person had received from a corporation or joint stock company prohibited from making an independent expenditure under the act.

House Bill 6187 would amend the Michigan Campaign Finance Act (MCL 169.55f) to hold officers and shareholders liable for improper independent expenditures by a corporation.

The bill specifies that an officer, a shareholder, or a member of a corporation or joint stock company who affirmatively consented to an independent expenditure that violated the act would be subject to a civil fine of not more than \$1,000 for each violation.

The bill would require that a corporation or joint stock company annually notify all officers, shareholders, and members of the penalties they may be subject to, under this section, and Section 55e of the act.

House Bill 6188 would amend the Michigan Campaign Finance Act (MCL 169.254) to add references to the new independent expenditure provisions that would be added by House Bills 6183, 6184, 6185, and 6186.

Current law specifies that a corporation, joint stock company, domestic dependent sovereign, or labor organization may make a contribution to a ballot question committee subject to this act. Further, a corporation, joint stock company, domestic dependent sovereign, or labor organization may make an independent expenditure in any amount for

the qualification, passage, or defeat of a ballot question. House Bill 6188 would retain these provisions, but specify that "*Subject to Sections 55a* (House Bill 6183), *55b* (House Bill 6184), *55c* (House Bill 6185), *and 55d* (House Bill 6186)" a corporation, joint stock company, domestic dependent sovereign, or labor organization may make an independent expenditure in any amount for the qualification, passage, or defeat of a ballot question.

FISCAL IMPACT:

The package of bills (House Bills 6182 - 6188) would have an indeterminate fiscal impact on state and local governments. Presumably, the Secretary of State would see costs increase by an indeterminate amount as a result of administrative costs associated with oversight, filing and reviewing reports submitted by corporations, joint stock companies, domestic dependent sovereigns, or labor organizations. The provisions of the bill require the Secretary of State to develop a method for online submission of reports and would require the Secretary of State to immediately post the reports to their website.

The bill would also create a civil fine penalty of not more than \$1,000 for any violations under the provisions of the bill. However, the bill does not classify the violations as civil infractions and it does not direct the fine revenue to any specific fund. In these cases, it is assumed that a provision of the Management and Budget Act would apply and the fines would be deposited into the state General Fund (MCL 18.1443). (In cases where the statute states the violation is a civil infraction, the civil infraction fine would be dedicated to public libraries.) The number of potential violations under this provision is unknown and cannot be determined with any accuracy.

The effect of the package of bills would be to increase corporation, joint stock company, domestic dependent sovereign, and labor organization independent campaign expenditure disclosure and increase the level of transparency. Moreover, the package of bills would limit the corporations, joint stock companies, domestic dependent sovereigns, and labor organizations that would be allowed to provide independent expenditures in campaigns. (See the description of the bill in the first portion of this summary.)

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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.