

HOUSE BILL No. 5058

October 12, 2011, Introduced by Reps. Knollenberg, Jacobsen, Kurtz and Tyler and referred to the Committee on Redistricting and Elections.

A bill to amend 1976 PA 388, entitled "Michigan campaign finance act," by amending sections 9 and 21a (MCL 169.209 and 169.221a), section 9 as amended by 1996 PA 590 and section 21a as added by 1994 PA 411.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 9. (1) "Incidental expense" means an expenditure that is
2 an ordinary and necessary expense, ~~as described in section 162 of~~
3 ~~the internal revenue code of 1986, 26 U.S.C. 162,~~ paid or incurred
4 in carrying out the business of an elective office. Incidental
5 expense includes, but is not limited to, any of the following:

6 (a) A disbursement necessary to assist, serve, or communicate
7 with a constituent.

8 (b) A disbursement for equipment, furnishings, or supplies for
9 the office of the public official.

1 (c) A disbursement for a district office if the district
2 office is not used for campaign-related activity.

3 (d) A disbursement for the public official or his or her
4 staff, or both, to attend a conference, meeting, reception, or
5 other similar event.

6 (e) A disbursement to maintain a publicly owned residence or a
7 temporary residence at the seat of government.

8 (f) An unreimbursed disbursement for travel, lodging, meals,
9 or other expenses incurred by the public official, a member of the
10 public official's immediate family, or a member of the public
11 official's staff in carrying out the business of the elective
12 office.

13 (g) A donation to a tax-exempt charitable organization,
14 including the purchase of tickets to charitable or civic events.

15 (h) A disbursement to a ballot question committee.

16 (i) A purchase of tickets for use by that public official and
17 members of his or her immediate family and staff to a fund-raising
18 event sponsored by a candidate committee, independent committee,
19 political party committee, or a political committee that does not
20 exceed \$100.00 per committee in any calendar year.

21 (j) A disbursement for an educational course or seminar that
22 maintains or improves skills employed by the public official in
23 carrying out the business of the elective office.

24 (k) A purchase of advertisements in testimonials, program
25 books, souvenir books, or other publications if the advertisement
26 does not support or oppose the nomination or election of a
27 candidate.

1 (l) A disbursement for consultation, research, polling, and
2 photographic services not related to a campaign.

3 (m) A fee paid to a fraternal, veteran, or other service
4 organization.

5 (n) A payment of a tax liability incurred as a result of
6 authorized transactions by the candidate committee of the public
7 official.

8 (o) A fee for accounting, professional, or administrative
9 services for the candidate committee of the public official.

10 (p) A debt or obligation incurred by the candidate committee
11 of a public official for a disbursement authorized by subdivisions
12 (a) to (o), if the debt or obligation was reported in the candidate
13 committee report filed for the year in which the debt or obligation
14 arose.

15 (2) "Independent expenditure" means an expenditure by a person
16 if the expenditure is not made at the direction of, or under the
17 control of, another person and if the expenditure is not a
18 contribution to a committee.

19 (3) "In-kind contribution or expenditure" means a contribution
20 or expenditure other than money.

21 (4) "Loan" means a transfer of money, property, or anything of
22 ascertainable monetary value in exchange for an obligation,
23 conditional or not, to repay in whole or part.

24 (5) "Local elective office" means an elective office at the
25 local unit of government level. Local elective office also includes
26 judge of the court of appeals, judge of the circuit court, judge of
27 the recorder's court of the city of Detroit, judge of the district

1 court, judge of the probate court, and judge of a municipal court.

2 (6) "Local unit of government" means a district, authority,
3 county, city, village, township, board, school district,
4 intermediate school district, or community college district.

5 Sec. 21a. (1) A candidate committee of a candidate who is
6 elected or appointed to an elective office may make an expenditure
7 for an incidental expense for the elective office to which that
8 candidate was elected or appointed. Except as otherwise
9 specifically provided in this act, an expenditure for an incidental
10 expense by a candidate committee ~~pursuant to~~ **UNDER** this section is
11 ~~considered~~ an expenditure under this act.

12 (2) **A CANDIDATE COMMITTEE OF A CANDIDATE WHO IS ELECTED OR**
13 **APPOINTED TO AN ELECTIVE OFFICE SHALL NOT MAKE AN EXPENDITURE TO**
14 **DEFEND THE ELECTED OR APPOINTED OFFICIAL IN A CIVIL OR CRIMINAL**
15 **ACTION OR TO PAY LEGAL COSTS UNLESS THE ACTION OR LEGAL COSTS DO**
16 **ANY OF THE FOLLOWING:**

17 (A) RELATE TO A RECALL ELECTION.

18 (B) RELATE TO A RECOUNT OF VOTES AS PROVIDED IN THE MICHIGAN
19 ELECTION LAW, 1954 PA 116, MCL 168.1 TO 168.992.

20 (C) RELATE TO COMPLIANCE WITH THIS ACT OR THE MICHIGAN
21 ELECTION LAW, 1954 PA 116, MCL 168.1 TO 168.992.

22 (D) TANGIBLY BENEFIT THE NOMINATION OR ELECTION OF A
23 CANDIDATE.

24 (3) ANY LEGAL COSTS NOT AUTHORIZED UNDER SUBSECTION (2) SHALL
25 BE PAID FROM A LEGAL DEFENSE FUND AS PROVIDED IN THE LEGAL DEFENSE
26 FUND ACT, 2008 PA 288, MCL 15.521 TO 15.539.

27 (4) IN ADDITION TO ANY OTHER REQUIREMENTS OF THIS ACT, A

1 CAMPAIGN STATEMENT OF A CANDIDATE COMMITTEE SHALL CONTAIN THE
2 PURPOSE OF ANY EXPENDITURE FOR LEGAL COSTS MADE BY THAT COMMITTEE
3 AS DESCRIBED IN SUBSECTION (2).

4 (5) A CANDIDATE COMMITTEE OF A CANDIDATE WHO IS ELECTED OR
5 APPOINTED TO ELECTIVE OFFICE SHALL ONLY MAKE AN EXPENDITURE AS
6 DEFINED BY THIS ACT. AN EXPENDITURE SHALL NOT BE MADE FOR THE
7 PERSONAL BENEFIT OF THE CANDIDATE OR ANY OTHER INDIVIDUAL.

8 (6) AN INDIVIDUAL WHO MAKES A DISBURSEMENT FROM CANDIDATE
9 COMMITTEE FUNDS THAT DOES NOT QUALIFY AS AN EXPENDITURE OR
10 INCIDENTAL EXPENSE OR AS A TRANSFER UNDER SECTION 45 IS GUILTY OF A
11 MISDEMEANOR PUNISHABLE BY A FINE OF NOT MORE THAN \$1,000.00 OR
12 IMPRISONMENT FOR NOT MORE THAN 90 DAYS, OR BOTH.