

SENATE BILL No. 750

October 12, 2011, Introduced by Senators ROBERTSON, GREEN and ROCCA and referred to the Committee on Local Government and Elections.

A bill to amend 1976 PA 388, entitled
"Michigan campaign finance act,"
by amending sections 33 and 35 (MCL 169.233 and 169.235), section
33 as amended by 1999 PA 238 and section 35 as amended by 2000 PA
75.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 33. (1) A committee, other than an independent committee
2 or a political committee required to file with the secretary of
3 state, supporting or opposing a candidate shall file complete
4 campaign statements as required by this act and the rules
5 promulgated under this act. The campaign statements shall be filed
6 according to the following schedule:

7 (a) A preelection campaign statement shall be filed not later
8 than the eleventh day before an election. The closing date for a
9 campaign statement filed under this subdivision shall be the

1 sixteenth day before the election.

2 (b) A postelection campaign statement shall be filed not later
3 than the thirtieth day following the election. The closing date for
4 a campaign statement filed under this subdivision shall be the
5 twentieth day following the election. A committee supporting a
6 candidate who loses the primary election shall file closing
7 campaign statements in accordance with this section. If all
8 liabilities of such a candidate or committee are paid before the
9 closing date and additional contributions are not expected, the
10 campaign statement may be filed at any time after the election, but
11 not later than the thirtieth day following the election.

12 (2) For the purposes of subsection (1):

13 (a) A candidate committee shall file a preelection campaign
14 statement and a postelection campaign statement for each election
15 in which the candidate seeks nomination or election, except if an
16 individual becomes a candidate after the closing date for the
17 preelection campaign statement only the postelection campaign
18 statement is required for that election.

19 (b) A committee other than a candidate committee shall file a
20 campaign statement for each period during which expenditures are
21 made for the purpose of influencing the nomination or election of a
22 candidate or for the qualification, passage, or defeat of a ballot
23 question.

24 (3) An independent committee or a political committee other
25 than a house political party caucus committee or senate political
26 party caucus committee required to file with the secretary of state
27 shall file campaign statements as required by this act according to

1 the following schedule:

2 (a) In an odd numbered year:

3 (i) Not later than January 31 of that year with a closing date
4 of December 31 of the previous year.

5 (ii) Not later than July 25 with a closing date of July 20 **OF**
6 **THAT YEAR.**

7 (iii) Not later than October 25 with a closing date of October
8 20 **OF THAT YEAR.**

9 (b) In an even numbered year:

10 (i) Not later than April 25 of that year with a closing date of
11 April 20 of that year.

12 (ii) Not later than July 25 with a closing date of July 20 **OF**
13 **THAT YEAR.**

14 (iii) Not later than October 25 with a closing date of October
15 20 **OF THAT YEAR.**

16 (4) A house political party caucus committee or a senate
17 political party caucus committee required to file with the
18 secretary of state shall file campaign statements as required by
19 this act according to the following schedule:

20 (a) Not later than January 31 of each year with a closing date
21 of December 31 of the immediately preceding year.

22 (b) Not later than April 25 of each year with a closing date
23 of April 20 of that year.

24 (c) Not later than July 25 of each year with a closing date of
25 July 20 of that year.

26 (d) Not later than October 25 of each year with a closing date
27 of October 20 of that year.

1 (e) For the period beginning on the fourteenth day immediately
2 preceding a primary or special primary election and ending on the
3 day immediately following the primary or special primary election,
4 not later than 4 p.m. each business day with a closing date of the
5 immediately preceding day, only for a contribution received or
6 expenditure made that exceeds \$1,000.00 per day.

7 (f) For the period beginning on the fourteenth day immediately
8 preceding a general or special election and ending on the day
9 immediately following the general or special election, not later
10 than 4 p.m. each business day with a closing date of the
11 immediately preceding day, only for a contribution received or
12 expenditure made that exceeds \$1,000.00 per day.

13 (5) Notwithstanding subsection (3) or (4) or section 51, if an
14 independent expenditure is made within 45 days before a special
15 election by an independent committee or a political committee
16 required to file a campaign statement with the secretary of state,
17 a report of the expenditure shall be filed by the committee with
18 the secretary of state within 48 hours after the expenditure. The
19 report shall be made on a form provided by the secretary of state
20 and shall include the date of the independent expenditure, the
21 amount of the expenditure, a brief description of the nature of the
22 expenditure, and the name and address of the person to whom the
23 expenditure was paid. The brief description of the expenditure
24 shall include either the name of the candidate and the office
25 sought by the candidate or the name of the ballot question and
26 shall state whether the expenditure supports or opposes the
27 candidate or ballot question. This subsection does not apply if the

1 committee is required to report the independent expenditure in a
2 campaign statement that is required to be filed before the date of
3 the election for which the expenditure was made.

4 (6) A candidate committee or a committee other than a
5 candidate committee that files a written statement under section
6 24(5) or (6) need not file a campaign statement under subsection
7 (1), (3), or (4) unless it received or expended an amount in excess
8 of \$1,000.00. If the committee receives or expends an amount in
9 excess of \$1,000.00 during a period covered by a filing, the
10 committee is then subject to the campaign filing requirements under
11 this act.

12 (7) A committee, candidate, treasurer, or other individual
13 designated as responsible for the committee's record keeping,
14 report preparation, or report filing who fails to file a statement
15 as required by this section shall pay a late filing fee. If the
16 committee has raised \$10,000.00 or less during the previous 2
17 years, the late filing fee shall be \$25.00 for each business day
18 the statement remains unfiled, but not to exceed \$500.00. If the
19 committee has raised more than \$10,000.00 during the previous 2
20 years, the late filing fee shall not exceed \$1,000.00, determined
21 as follows:

22 (a) Twenty-five dollars for each business day the report
23 remains unfiled.

24 (b) An additional \$25.00 for each business day after the first
25 3 business days the report remains unfiled.

26 (c) An additional \$50.00 for each business day after the first
27 10 business days the report remains unfiled.

1 (8) If a candidate, treasurer, or other individual designated
2 as responsible for the committee's record keeping, report
3 preparation, or report filing fails to file 2 statements required
4 by this section or section 35 and both of the statements remain
5 unfiled for more than 30 days, that candidate, treasurer, or other
6 designated individual is guilty of a misdemeanor ~~—~~punishable by a
7 fine of not more than \$1,000.00 ~~—~~or imprisonment for not more than
8 90 days, or both.

9 (9) If a candidate is found guilty of a violation of this
10 section, the circuit court for that county, on application by the
11 attorney general or the prosecuting attorney of that county, may
12 prohibit that candidate from assuming the duties of a public office
13 or from receiving compensation from public funds, or both.

14 (10) If a **CANDIDATE**, treasurer, or other individual designated
15 as responsible for a committee's record keeping, report
16 preparation, or report filing knowingly files an incomplete or
17 inaccurate statement or report required by this section, that
18 ~~treasurer or other designated individual is subject to a civil~~
19 **GUILTY OF A MISDEMEANOR PUNISHABLE BY A** fine of not more than
20 **\$1,000.00 OR THE AMOUNT OF THE UNDISCLOSED CONTRIBUTION OR**
21 **EXPENDITURE, WHICHEVER IS GREATER, OR IMPRISONMENT FOR NOT MORE**
22 **THAN 90 DAYS, OR BOTH.**

23 (11) **IF A CANDIDATE COMMITTEE'S ACCOUNT HAS A BALANCE OF**
24 **\$20,000.00 OR MORE AND A CANDIDATE, TREASURER, OR OTHER INDIVIDUAL**
25 **DESIGNATED AS RESPONSIBLE FOR THAT COMMITTEE'S RECORD KEEPING,**
26 **REPORT PREPARATION, OR REPORT FILING FAILS, FOLLOWING A GENERAL**
27 **ELECTION, TO FILE THE POSTELECTION CAMPAIGN STATEMENT AND THE NEXT**

1 ANNUAL CAMPAIGN STATEMENT REQUIRED UNDER SECTION 35(1), THAT
2 CANDIDATE, TREASURER, OR OTHER INDIVIDUAL IS GUILTY OF A FELONY
3 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 3 YEARS OR A FINE OF
4 NOT MORE THAN \$5,000.00, OR BOTH. ANY MONEY IN A CANDIDATE
5 COMMITTEE ACCOUNT DESCRIBED IN THIS SUBSECTION IS SUBJECT TO
6 SEIZURE BY, AND FORFEITURE TO, THIS STATE AS PROVIDED IN THIS
7 SECTION.

8 (12) NOT MORE THAN 5 BUSINESS DAYS AFTER SEIZURE OF MONEY
9 UNDER SUBSECTION (11), THE DEPARTMENT OF TREASURY SHALL DELIVER
10 PERSONALLY OR BY REGISTERED MAIL TO THE LAST KNOWN ADDRESS OF THE
11 CANDIDATE FROM WHOM THE SEIZURE WAS MADE AN INVENTORY STATEMENT OF
12 THE MONEY SEIZED. THE INVENTORY STATEMENT SHALL ALSO CONTAIN NOTICE
13 TO THE EFFECT THAT UNLESS DEMAND FOR HEARING AS PROVIDED IN THIS
14 SECTION IS MADE WITHIN 10 BUSINESS DAYS, THE MONEY IS FORFEITED TO
15 THE STATE. WITHIN 10 BUSINESS DAYS AFTER THE DATE OF SERVICE OF THE
16 NOTICE, THE CANDIDATE MAY BY REGISTERED MAIL, FACSIMILE
17 TRANSMISSION, OR PERSONAL SERVICE FILE WITH THE STATE TREASURER A
18 DEMAND FOR A HEARING BEFORE THE STATE TREASURER OR A PERSON
19 DESIGNATED BY THE STATE TREASURER FOR A DETERMINATION AS TO WHETHER
20 THE MONEY WAS LAWFULLY SUBJECT TO SEIZURE AND FORFEITURE. THE
21 CANDIDATE IS ENTITLED TO APPEAR BEFORE THE DEPARTMENT OF TREASURY
22 OR A PERSON DESIGNATED BY THE STATE TREASURER, TO BE REPRESENTED BY
23 COUNSEL, AND TO PRESENT TESTIMONY AND ARGUMENT. UPON RECEIPT OF A
24 REQUEST FOR HEARING, THE DEPARTMENT OF TREASURY OR A PERSON
25 DESIGNATED BY THE STATE TREASURER SHALL HOLD THE HEARING WITHIN 15
26 BUSINESS DAYS. THE HEARING IS NOT A CONTESTED CASE PROCEEDING AND
27 IS NOT SUBJECT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969

1 PA 306, MCL 24.201 TO 24.328. AFTER THE HEARING, THE DEPARTMENT OF
2 TREASURY OR A PERSON DESIGNATED BY THE STATE TREASURER SHALL RENDER
3 ITS DECISION IN WRITING WITHIN 10 BUSINESS DAYS OF THE HEARING AND,
4 BY ORDER, SHALL EITHER DECLARE THE MONEY SUBJECT TO SEIZURE AND
5 FORFEITURE OR DECLARE THE MONEY RETURNABLE TO THE CANDIDATE. IF,
6 WITHIN 10 BUSINESS DAYS AFTER THE DATE OF SERVICE OF THE INVENTORY
7 STATEMENT, THE CANDIDATE DOES NOT FILE WITH THE STATE TREASURER A
8 DEMAND FOR A HEARING BEFORE THE DEPARTMENT OF TREASURY OR A PERSON
9 DESIGNATED BY THE STATE TREASURER, THE MONEY SEIZED IS FORFEITED TO
10 THE STATE BY OPERATION OF LAW. IF, AFTER A HEARING BEFORE THE STATE
11 TREASURER OR A PERSON DESIGNATED BY THE STATE TREASURER, THE
12 DEPARTMENT OF TREASURY OR A PERSON DESIGNATED BY THE STATE
13 TREASURER DETERMINES THAT THE MONEY IS LAWFULLY SUBJECT TO SEIZURE
14 AND FORFEITURE AND THE CANDIDATE DOES NOT APPEAL TO THE CIRCUIT
15 COURT OF THE COUNTY IN WHICH THE SEIZURE WAS MADE WITHIN THE TIME
16 PRESCRIBED IN THIS SECTION, THE MONEY SEIZED IS FORFEITED TO THE
17 STATE BY OPERATION OF LAW. IF A CANDIDATE IS AGGRIEVED BY THE
18 DECISION OF THE DEPARTMENT OF TREASURY OR A PERSON DESIGNATED BY
19 THE STATE TREASURER, THAT CANDIDATE MAY APPEAL TO THE CIRCUIT COURT
20 OF THE COUNTY WHERE THE SEIZURE WAS MADE TO OBTAIN A JUDICIAL
21 DETERMINATION OF THE LAWFULNESS OF THE SEIZURE AND FORFEITURE. THE
22 ACTION SHALL BE COMMENCED WITHIN 20 DAYS AFTER NOTICE OF A
23 DETERMINATION BY THE DEPARTMENT OF TREASURY OR A PERSON DESIGNATED
24 BY THE STATE TREASURER IS SENT TO THE CANDIDATE. THE COURT SHALL
25 HEAR THE ACTION AND DETERMINE THE ISSUES OF FACT AND LAW INVOLVED
26 IN ACCORDANCE WITH RULES OF PRACTICE AND PROCEDURE AS IN OTHER IN
27 REM PROCEEDINGS.

1 Sec. 35. (1) In addition to any other requirements of this act
2 for filing a campaign statement, a committee, other than an
3 independent committee or a political committee required to file
4 with the secretary of state, shall also file a campaign statement
5 not later than January 31 of each year. The campaign statement
6 shall have a closing date of December 31 of the previous year. The
7 period covered by the campaign statement filed ~~pursuant to~~ **UNDER**
8 this subsection begins the day after the closing date of the
9 previous campaign statement. A campaign statement filed ~~pursuant to~~
10 **UNDER** this subsection shall be waived if a postelection campaign
11 statement has been filed that has a filing deadline within 30 days
12 of the closing date of the campaign statement required by this
13 subsection.

14 (2) Subsection (1) does not apply to a candidate committee for
15 an officeholder who is a judge or a supreme court justice, or who
16 holds an elective office for which the salary is less than \$100.00
17 a month and who does not receive any contribution or make any
18 expenditure during the time that would be otherwise covered in the
19 statement.

20 (3) A committee, candidate, treasurer, or other individual
21 designated as responsible for the record keeping, report
22 preparation, or report filing for a candidate committee of a
23 candidate for state elective office or a judicial office who fails
24 to file a campaign statement under this section shall be assessed a
25 late filing fee. If the committee has raised \$10,000.00 or less
26 during the previous 2 years, the late filing fee shall be \$25.00
27 for each business day the campaign statement remains unfiled, but

1 not to exceed \$500.00. If the committee has raised more than
2 \$10,000.00 during the previous 2 years, the late filing fee shall
3 be \$50.00 for each business day the campaign statement remains
4 unfiled, but not to exceed \$1,000.00. The late filing fee assessed
5 under this subsection shall be paid by the candidate, and the
6 candidate shall not use committee funds to pay that fee. A
7 committee, treasurer, or other individual designated as responsible
8 for the record keeping, report preparation, or report filing for a
9 committee other than a candidate committee of a candidate for state
10 elective office or a judicial office who fails to file a campaign
11 statement under this section shall pay a late filing fee of \$25.00
12 for each business day the campaign statement remains not filed in
13 violation of this section. The late filing fee shall not exceed
14 \$500.00.

15 (4) A committee filing a written statement ~~pursuant to~~ **UNDER**
16 section 24(5) or (6) need not file a statement in accordance with
17 subsection (1). If a committee receives or expends more than
18 \$1,000.00 during a time period prescribed by section 24(5) or (6),
19 the committee is then subject to the campaign filing requirements
20 under this act and shall file a campaign statement for the period
21 beginning the day after the closing date of the last postelection
22 campaign statement or an annual campaign statement that is waived
23 ~~pursuant to~~ **UNDER** subsection (1), whichever occurred earlier.

24 (5) If a candidate, treasurer, or other individual designated
25 as responsible for the record keeping, report preparation, or
26 report filing fails to file 2 statements required by this section
27 or section 33 and both of the statements remain unfiled for more

1 than 30 days, that candidate, treasurer, or other designated
2 individual is guilty of a misdemeanor, punishable by a fine of not
3 more than \$1,000.00, or imprisonment for not more than 90 days, or
4 both.

5 (6) If a **CANDIDATE**, treasurer, or other individual designated
6 as responsible for the record keeping, report preparation, or
7 report filing for a committee required to file a campaign statement
8 under subsection (1) knowingly files an incomplete or inaccurate
9 statement or report required by this section, that ~~treasurer or~~
10 ~~other designated individual is subject to a civil~~ **GUILTY OF A**
11 **MISDEMEANOR PUNISHABLE BY A** fine of not more than \$1,000.00 **OR THE**
12 **AMOUNT OF THE UNDISCLOSED CONTRIBUTION OR EXPENDITURE, WHICHEVER IS**
13 **GREATER, OR IMPRISONMENT FOR NOT MORE THAN 90 DAYS, OR BOTH.**

14 Enacting section 1. This amendatory act does not take effect
15 unless Senate Bill No. 753

16 of the 96th Legislature is enacted into law.