

MICHIGAN CAMPAIGN FINANCE ACT

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Senate Bill 1022 (proposed substitute H-1)

Sponsor: Sen. David Robertson

House Committee: Elections and Ethics

Senate Committee: Elections and Government Reform

Complete to 12-20-18

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

Senate Bill 1022 would amend the Michigan Campaign Finance Act, primarily to create a committee known as a *leadership committee*, to amend the complaint process timeline for violations of the Act, and to specify powers of the Michigan Secretary of State (SOS).

Leadership committee (Section 24d)

A leadership committee would be designated as such for one or more candidates or officeholders and would consist of a political committee or independent committee. A candidate or officeholder for whom a leadership committee was designated would have to consent to that designation, and could revoke that designation, in a record sent to the committee and the SOS. The leadership committee would have to identify the candidate(s) or officeholder(s) for whom it was designated, and candidates and officeholders would be limited to a single leadership committee per election cycle. (If a designation were revoked, an officeholder or candidate could not designate another committee as a leadership committee in the same election cycle.)

The bill states that all provisions related to political committees or independent committees would apply to leadership committees, unless otherwise provided in the Act. (It is unclear if this stipulation would apply to the contribution limits for political committees and independent committees set forth in Sections 52 and 69 of the Act.)

Complaint process for violations (Section 15)

Under the Act, the SOS must give a person against whom a violation of the Act is alleged notice within five days. Following a 15-day window for response and a 10-day window for rebuttal (and possible extensions), the SOS must post whether there was reason to believe that a violation occurred within 45 days of receipt of the rebuttal. The bill would reduce that deadline to 40 days. Additionally, the bill would allow the SOS to consolidate complaints and use the timelines of the latest filed complaint if the SOS received the same or similar sets of facts against the same people. Complainants could object to the consolidation within five days, in which case the SOS would not be allowed to consolidate the complaints.

The bill would also impose a five-year statute of limitations (after which time an action could not be brought) for actions brought to collect a fine or fee imposed under the Act.

Secretary of State powers and duties (Section 15a)

The bill would limit the SOS's powers and duties to regulate campaign finance to those expressly provided in the Act. Additionally, it would require the SOS to report yearly by January 30 to House and Senate committees about any instances in which the time frame for the complaint process (detailed above) was not met. The report would also have to include the reason the SOS did not comply with the time frame.

Reporting requirements (Section 16)

The bill would amend several rules concerning required statements or reports under the Act. It would extend required notice of an error or omission from 4 days to 20 days after the filing deadline, and require notification by email if the filing official had the filer's email address. Currently, a filer has 9 business days from the original filing date to make any corrections. Under the bill, the filer would have 10 days after receiving notice of the error or omission.

If the filing official determined that a statement or report was so deficient that the document could not be considered filed, the official would have to notify the filer via email and registered mail within 20 days after the original deadline, or within 10 days of an amended submission if the amendment triggered the deficiency. The notice would have to describe the statutory provisions that the filer failed to comply with and instructions for correction. Then, the filer would have to make any corrections within 10 days of receiving the notice. If the filer failed to make corrections by the specified deadlines, late filing fees would apply from the date of the original deficient filing.

Currently, filing officials must notify the attorney general of errors or omissions that were not corrected or failures to file between 9 and 12 days after the original deadline. The bill would revise this timeline so that notification would have to take place between 30 and 35 days after the original deadline.

Electronic Filing and Internet Disclosure System (Section 18)

Public Act 238 of 1999¹ required the establishment of an electronic filing and disclosure system, with electronic filing to begin in January 2004. The bill would allow the SOS to upgrade the system or to develop a new system, and require the SOS to report to the legislature on a new system's cost and feasibility by December 31, 2019.

Purposes for which secondary depositories could be used (Section 21)

Section 21 of the Act limits a candidate committee to one account in a financial institution as the official depository for contributions and expenditures. It states that a candidate committee may only use secondary depositories to deposit contributions and promptly transfer the deposits to the official depository.

Committees other than candidate committees and committees not required to have a Michigan elector as their treasurer are currently allowed to use secondary depositories to deposit contributions and promptly transfer the deposits to the official depository, and also

¹ House Fiscal Agency analysis of HB 5057/PA 238 of 1999: <http://www.legislature.mi.gov/documents/1999-2000/billanalysis/House/pdf/1999-HLA-5056-B.pdf>

to deposit, divide, and transfer contributions that are aggregated with dues or other payments.

The bill would add a purpose for secondary depositories to all of these committees: to deposit the proceeds of a joint fundraiser and transfer each committee's share of receipts from the fundraiser.

Record retention and disclosure to the SOS (Section 22)

The bill would remove a requirement that a committee treasurer record the names and addresses of individuals from whom contributions were received.

Currently, required records must be preserved for five years and be made available for inspection as authorized by the SOS. The bill would require the SOS to give a committee's treasurer at least 10 business days' notice and a detailed description of the records requested when the SOS would be inspecting those records in connection with an alleged violation of the Act.

The bill would allow the SOS to request a copy from a candidate committee of the most recent financial account statement from the primary depository and any secondary depository, if the candidate for whom the committee was established no longer held the applicable elective office.

Reporting on agents or independent contractors (Section 26)

The bill would require a committee to report an itemized list of expenditures or disbursements by or on behalf of agents or independent contractors for certain purposes (fundraising, accounting, professional, advertising, or administrative services). If the committee stated that the list was comprehensive regarding those agents or independent contractors, that statement would be dispositive without evidence to the contrary.

Allowable contributions by a candidate committee (Section 44)

Generally, a candidate committee may not make expenditures or disbursement except to further the applicable candidate's nomination or election. However, the bill would stipulate that, in addition to other exceptions, a candidate committee could make contributions to a political or independent committee designated as a leadership committee.

Candidate committee's unspent money (Section 45)

Section 45 of the Act lists the uses to which unspent money in a candidate committee may be put. Generally, a person may transfer unused funds from one of his or her candidate committees to another as long as the recipient committee has equal or greater contribution limits. The bill would also allow that unused money in a candidate committee to be given to a political committee or an independent expenditure committee.

Connected organization transfers and recordkeeping (Section 55)

Under the Act, connected organizations may solicit or obtain contributions for separate segregated accounts from union members and stockholders, among others, on an automatic

basis as long as those individuals affirmatively consent to the contribution. The bill would provide that the person providing affirmative consent could revoke that consent at any time.

The bill would allow a connected organization to pay certain costs for fundraising activities for the separate segregated fund. Those costs could not be disproportionately more valuable than the amount raised by the event or the amount raised per individual item sold. If a connected organization violated this provision, the separate segregated fund could cure the violation if it repaid the connected organization within 60 days of the payment. (The costs would not be considered disproportionately valuable if they were equal to or less than 10% of the amount raised or amount raised per individual item sold.)

Incidental expense (Section 9)

The Act defines incidental expenses as ordinary or necessary expenditures paid or incurred in carrying out the business of elective office. The bill would include contributions to a political or independent committee designated as a leadership committee under that classification.

MCL 169.205 et al.

FISCAL IMPACT:

A fiscal analysis is in process.

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