



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 1022 (as introduced 5-22-18)
Sponsor: Senator Dave Robertson
Committee: Elections and Government Reform

Date Completed: 5-25-18

CONTENT

The bill would amend the Michigan Campaign Finance Act to do the following:

- **Allow a candidate committee's unspent money to be given to that candidate committee to pay its outstanding debts, if the former candidate did not become a candidate again and the committee had not been terminated.**
- **Allow the Secretary of State to fine the committee, or a new committee formed by the candidate, if he or she received the unspent money and later became a candidate for the same elective office.**
- **Prescribe misdemeanor penalties for a person who knowingly disbursed unspent money from a candidate committee in a way prohibited by the Act.**
- **Allow unspent money of a candidate committee that had been terminated to be given to a political committee or independent expenditure committee, in addition to the recipients currently allowed.**
- **Permit a candidate committee or a committee to deposit the proceeds of a joint fund-raiser in a secondary depository for certain purposes.**
- **Specify how a connected organization could transfer contributions it collected to a separate segregated fund.**

Transfer of Unspent Campaign Funds

Section 45 of the Act allows a person to transfer any unspent funds from one candidate committee to another candidate committee of that person if the contribution limits prescribed by the Act for the candidate committee receiving the funds are equal to or greater than the contribution limits for the candidate committee transferring the funds and if the candidate committees are simultaneously held by the same person.

Upon termination of a candidate committee, unspent money in the candidate committee that is not eligible for transfer to another candidate committee must be disbursed as follows:

- Given to a political party committee.
- Given to a tax-exempt charitable organization, as long as the candidate does not become an officer or director of that organization or receive compensation, directly or indirectly, from it.
- Returned to the contributors of the funds upon termination of the campaign committee.
- If the person was a candidate for the office of State Representative, given to a House political party caucus committee.
- If the person was a candidate for the office of State Senator, given to a Senate political party caucus committee.

- Given to an independent committee.
- Given to a ballot question committee.

The bill would allow unspent money also to be given to a political committee or an independent expenditure committee.

In addition, under the bill, if the person were formerly a candidate for another State elective office and had not again become a candidate for that other State elective office, and the person's candidate committee for that other State elective office had not been terminated, unspent money could be given to that candidate committee for the sole purpose of, and in an amount not to exceed what was necessary for, repaying any outstanding debts and obligations of that committee.

If a person received money under this provision, and later become a candidate for the same State elective office for which the candidate committee that received the unspent money was formed, the Secretary of State could assess a civil fine against that committee, or any new committee formed by that candidate for the same elective office if the original committee had been terminated, in an amount not to exceed the amount of the unspent money received by the committee.

In addition to these penalties, a person who knowingly violated Section 45 would be guilty of a misdemeanor punishable by the following:

- If the person were an individual, imprisonment for up to 90 days or a fine of up to \$1,000, or both.
- If the person were not an individual, a fine of up to \$10,000.

Under Section 44 of the Act, a candidate committee is prohibited from making an expenditure or other disbursement except to further the nomination or election of the candidate for which it is formed. A candidate committee also is prohibited from making a contribution to or an independent expenditure on behalf of another candidate committee. Under the bill, this would apply except as provided above for unspent money.

The bill would prohibit a candidate committee from using the unspent money for any purpose other than repayment of debts and obligations of the candidate committee existing at the time the contribution was received from the terminating candidate committee.

A violation of Section 44 is a misdemeanor punishable by imprisonment for up to 90 days and/or a maximum fine of \$1,000.

Separate Segregated Funds

The Act allows a connected organization to make an expenditure for the establishment or administration of, and solicitation, collection, or transfer of contributions to, a separate segregated fund to be used for political purposes. A separate segregated fund established by a connected organization must be organized as a political committee or an independent committee, and, in addition to any other disbursements not restricted or prohibited by law, may only make contributions to, and expenditures on behalf of, candidate committees, ballot question committees, political party committees, political committees, independent expenditure committees, independent committees, and other separate segregated funds.

The Act limits the people from whom a separate segregated fund may solicit contributions, depending on the entity organizing the fund.

Contributions must not be obtained for a separate segregated fund by use of coercion or physical force, by making a contribution a condition of employment or membership, or by using or threatening to use job discrimination or financial reprisals. A connected organization also is prohibited from soliciting or obtaining contributions for a separate segregated fund from an individual described in Section 55 on an automatic or passive basis including but not limited to a payroll deduction plan or reverse checkoff method.

A connected organization may solicit or obtain contributions for a separate segregated fund from an individual described in Section 55 on an automatic basis, including but not limited to a payroll deduction plan, only if the individual who is contributing to the fund affirmatively consents to the contribution.

Under the bill, a connected organization could transfer any such contributions that it collected, individually or aggregated, to the separate segregated fund electronically or by written instrument. Any transfer would have to be accompanied by or logically associated with a record or electronic record setting forth all required information for each individual contributor whose contribution was transferred.

Using Secondary Depositories for Joint Fund-Raisers

The Act prescribes different requirements for a candidate committee or a committee using secondary depositories depending on whether the candidate committee or a committee has a treasurer who is a qualified elector of Michigan or has a treasurer who is a resident of another state.

Except as otherwise provided by law, a candidate committee or a committee with a treasurer who is a qualified elector of the State is required to have one account in a financial institution in the State as an official depository for all contributions received by the committee and to make all expenditures. The committee must designate that financial institution as its official depository. The establishment of an account in a financial institution is not required until the committee receives a contribution or makes an expenditure. Candidate committees may use secondary depositories only for the purpose of depositing contributions and must promptly transfer the deposits to the committee's official depository.

Generally the same requirements apply to candidate committee or a committee with a treasurer who is a resident of another state.

The bill would allow a candidate committee or a committee with a treasurer who is a qualified elector of Michigan or another state to use a secondary depository also to deposit the proceeds of a joint fund-raiser and transfer each committee's share of any receipts from the joint fund-raiser. A committee could use secondary depositories only for the following:

- To deposit contributions and promptly transfer the deposits to the committee's official depository.
- To deposit the proceeds of a joint fund-raiser and transfer each committee's share of any receipts from the joint fund-raiser.
- To deposit, divide, and transfer contributions that were aggregated with dues or other payments.

The bill would define "financial institution" as a State or nationally chartered bank or a State or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the U.S. government and that maintains a principal office or branch office in Michigan under the laws of this State or the United States.

Independent Committee Statement

Currently, when filing a statement of organization, an independent committee, a political committee, or a political party committee may indicate in a written statement signed by the treasurer of the committee that it does not expect in a calendar year to receive or spend more than \$1,000.

The bill would allow an independent expenditure committee also to indicate in a written statement signed by the treasurer of the committee that it did not expect in a calendar year to receive or spend more than \$1,000.

MCL 169.205 et al.

Legislative Analyst: Nathan Leaman

FISCAL IMPACT

The bill could provide a negligible increase in deposits to the State's General Fund regarding the civil fines that the Department of State could impose for violation of the proposed provisions. The Department anticipates that there would be relatively few violations but any civil fines levied by the Department would be deposited into the State's General Fund/General Purpose (GF/GP) revenue. The amount of potential additional GF/GP deposits are indeterminate and would depend on the number and amounts of fines eventually levied by the Department of State.

In addition, an increase in misdemeanor arrests and convictions could increase resource demands on local court systems, law enforcement, and jails. Any associated increase in penal fine revenue would be dedicated to public libraries.

Fiscal Analyst: Joe Carrasco
Ryan Bergan

SAS\S1718\s1022sa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.