

Legislative Analysis



STATE OFFICER FINANCIAL DISCLOSURE ACT

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4685 (H-1) as reported from committee
Sponsor: Rep. Mark A. Tisdell

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

House Bill 4686 (H-1) as reported from committee
Sponsor: Rep. Nate Shannon

Committee: Elections and Ethics
Complete to 6-8-21

SUMMARY:

House Bill 4685 would create a new act, the State Officer Financial Disclosure Act, to require financial disclosure by *state officers*.

State officer would mean an individual holding any of the following offices:

- Governor.
- Lieutenant governor.
- Secretary of state.
- Attorney general.
- State treasurer.
- Superintendent of public instruction.
- Member of the Liquor Control Commission.
- Member of the Civil Service Commission.
- Member of the State Board of Education.
- Member of a governing board of an institution of higher education.

The bill would require state officers to file a report with the state Board of Ethics annually by February 1. (Upon showing of good cause, the board could extend the deadline for up to 90 days.) The report would have to include all of the following:

- The state officer's full name, mailing address, and occupation and the state office held by him or her.
- The names of members of the state officer's *immediate family* who are not dependent children and the number of dependent children.
- Employers' names, addresses, and principal activities for the state officer and immediate family members for the year covered by the report, if the income earned was \$5,000 or more.
- For any source of income of more than \$5,000 in the covered year (earned by either the state officer or immediate family members), the source and type of earned income received.
- The source and type of all other income if the total income was more than \$5,000 in the covered year.
- The address of each parcel of real property (except for the primary residence) held during that calendar year by the state officer and immediate family members if the fair market value for the property was \$50,000 or more.

- The address of property owned by the state officer (with the exception of the officer's primary residence) or immediate family member if the property had a fair market value of \$50,000 or more.
- A description of stocks, bonds, commodities, futures, shares in mutual funds, or any other forms of securities held by the state officer or immediate family members if the total fair market value of the security was \$10,000 or more.
- A description of interest in another kind of specified asset if the interest in the asset had a value of \$10,000 or more.
- The identity of certain compensated positions held by the state officer and immediate family members for certain entities if the compensation in that calendar year was \$1,000 or more.
- If the state officer or immediate family members were required to register as a lobbyist or lobbyist agent, the name, address, and principal activity of all who gave compensation to or reimbursed the person for lobbying. (For purposes of this provision, "immediate family" would include the child or parent of the state officer and the spouse of the state officer's child.)
- A description of any interest the state officer or an immediate family member had in a legal entity conducting business in Michigan in the calendar year, if the interest had a book value of \$10,000 or more, unless the entity had shares that are listed or traded over the counter or on an organized exchange.

Immediate family would mean a spouse, dependent child, or a person claimed as a dependent by the individual or the individual's spouse for federal income tax purposes.

The state officer would not be required to disclose any value of any real or personal property disclosed under the bill.

The state officer also would not be required to report on the interests or assets of a blind trust—aside from identifying that the interest exists—but would have to include information on other trusts or financial arrangements.

A state officer filing a report could omit any of the following:

- Information the state officer must report under the Michigan Campaign Finance Act.
- Information about property or stocks or other forms of securities if all of the following apply:
 - The state officer filing the report did not have actual knowledge of the item and the item was the exclusive financial interest and responsibility of the state officer's immediate family member.
 - The item was not derived from the income, assets, or activities of the state officer.
 - The state officer did not derive, or expect to derive, financial benefit from the item.
- An item concerning the state officer's spouse if the spouse is living separate and apart and his or her intent is divorce or separation, or an item arising from a divorce or separation.
- Compensation from certain publicly held corporations.
- Benefits received under the Social Security Act.

The Board of Ethics would have to preserve these reports for at least 15 years.

Generally, all records and files related to the reports would be confidential and exempt from disclosure under the Freedom of Information Act (FOIA). However, a state officer could disclose his or her own report, and the board would have to release a former state officer's report within 10 days after a request.

The board could use a financial disclosure report filed under the act to determine whether a state officer is in compliance with applicable ethics and conflict of interest laws.

If the governor violated the proposed act, he or she would be subject to censure if authorized by a concurrent resolution adopted by a majority of the members elected to and serving in each house of the legislature. Any other state officer who violated the act would be subject to appropriate disciplinary action by the governor.

House Bill 4686 would amend 1973 PA 196, which prescribes standards of conduct for public officers and employees. It would stipulate that one of the functions of the state Board of Ethics is to perform the duties described in HB 4685. In addition to the reason currently listed for holding a board meeting in private—that it appears necessary for the protection of individual rights—the bill would add meetings held pursuant to the board's proposed duties under HB 4685.

The bills are tie-barred together, which means that neither could take effect unless both were enacted. They would take effect January 1, 2023.

FISCAL IMPACT:

The bills would have an indeterminate fiscal impact on the board of ethics within the executive office of the governor. The extent to which the bill may increase costs for the executive office is unknown, but likely minimal, and primarily corresponds to the record retention provisions. Provisions related to disciplinary actions by the governor or attorney general could impose certain administrative costs, which would likely be absorbed under current appropriation levels. If current appropriations were insufficient to cover costs, any new funding would be subject to a legislative appropriation.

POSITIONS:

A representative of the Department of State testified in support of the bills. (5-11-21)

Voters Not Politicians indicated support for the bills. (5-11-21)

Legislative Analyst: Jenny McInerney
Fiscal Analyst: Ben Gielczyk

■ 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.