

SENATE BILL No. 728

December 13, 1989, Introduced by Senators IRWIN, POLLACK,
FAUST and KELLY and referred to the Committee on
Government Operations.

A bill to regulate certain political activity; to require state officials and candidates for state office to make certain financial reports; to prescribe the powers and duties of certain state officers; and to prescribe penalties and provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "Michigan financial disclosure act".

3 Sec. 2. As used in this act:

4 (a) "Candidate" means that term as defined in section 3 of
5 the Michigan campaign finance act, Act No. 388 of the Public Acts
6 of 1976, being section 169.203 of the Michigan Compiled Laws.

7 (b) "Candidate for state office" means a candidate for any
8 of the following:

9 (i) The office of governor.

1 (ii) The office of lieutenant governor.

2 (iii) The office of state representative.

3 (iv) The office of state senator.

4 (v) The office of attorney general.

5 (vi) The office of secretary of state.

6 (c) "Earned income" means that term as defined in section 32
7 of the internal revenue code.

8 (d) "Gift" means a payment, subscription, advance, forbear-
9 ance, rendering, or deposit of money, services, or anything of
10 value, unless consideration of equal or greater value is given
11 therefor. Gift does not include a campaign contribution other-
12 wise reported as required by law, a commercially reasonable loan
13 made in the ordinary course of business, or a gift received from
14 a member of the individual's immediate family or from a relative
15 within the third degree of consanguinity, or from a spouse of a
16 member of the immediate family or of a relative within the third
17 degree of consanguinity.

18 (e) "Immediate family" means a child residing in an
19 individual's household, a spouse of an individual, or a person
20 claimed by that individual or that individual's spouse as a
21 dependent for federal income tax purposes.

22 (f) "Income" means money or a thing of value received, or to
23 be received as a claim on future services, whether in the form of
24 a fee, salary, expense, allowance, forbearance, forgiveness,
25 interest, dividend, royalty, rent, capital gain, or any other
26 form of recompense that is considered income under the internal
27 revenue code.

1 (g) "Secretary of state" means the secretary of state or the
2 designee of the secretary of state.

3 (h) "State official" means all of the following:

4 (i) The governor.

5 (ii) The lieutenant governor.

6 (iii) A state senator.

7 (iv) A state representative.

8 (v) The head of each principal department as provided in
9 section 3 of article V of the state constitution of 1963.

10 (vi) The members of a board or commission heading a princi-
11 pal department as provided in section 3 of article V of the state
12 constitution of 1963.

13 (vii) The person appointed by a board or commission to be
14 the principal executive officer of a principal department as pro-
15 vided in section 3 of article V of the state constitution of
16 1963.

17 (viii) A justice of the supreme court.

18 (ix) A judge of the court of appeals.

19 Sec. 3. A state official or candidate for state office
20 shall not accept a payment of money or any thing of ascertainable
21 monetary value as consideration for an appearance, a speaking
22 engagement, an article, or other activity related to the office
23 held or being sought.

24 Sec. 4. If an individual was a state official or candidate
25 for state office at any time during the preceding calendar year
26 or during the period from January 1 to April 15 of the present
27 year, that state official or candidate for state office shall

1 file with the secretary of state by May 1 of the present year a
2 report that meets the requirements of section 5.

3 Sec. 5. Except as provided in section 7, the report
4 required by section 4 shall include a complete statement of all
5 of the following:

6 (a) The source, type, and amount or value of earned income
7 received during the preceding calendar year by the state offi-
8 cial, the candidate for state office, or a member of the immedi-
9 ate family of the state official or candidate for state office if
10 the total earned income from that source equals \$100.00 or more
11 during that calendar year.

12 (b) The source, type, and amount or value of all other
13 income not reported under subdivision (a) that is received during
14 the preceding calendar year by the state official, the candidate
15 for state office, or a member of the immediate family of the
16 state official or candidate for state office if the total income
17 from that source equals \$100.00 or more during that calendar
18 year.

19 (c) The source and a brief description of each gift received
20 during the preceding calendar year by the state official, the
21 candidate for state office, or a member of the immediate family
22 of the state official or candidate for state office if the value
23 of the gift is \$100.00 or more.

24 (d) The identity and value of each asset held during the
25 preceding calendar year by the state official, the candidate for
26 state office, or a member of the immediate family of the state
27 official or candidate for state office, including real or

1 personal property or cash, if the asset had a fair market value
2 of \$1,000.00 or more at any time the asset was held during the
3 preceding calendar year.

4 (e) The identity and value of each liability owed during the
5 preceding calendar year by the state official, the candidate for
6 state office, or a member of the immediate family of the state
7 official or candidate for state office if the amount of the
8 liability was \$10,000.00 or more at any time during the preceding
9 calendar year, excluding a loan secured by the personal residence
10 of the state official or candidate for state office or by a per-
11 sonal motor vehicle, household furniture, or appliance, if the
12 loan does not exceed the purchase price of the item that secures
13 it.

14 (f) A brief description and value of a purchase, sale, or
15 exchange during the preceding calendar year by the state offi-
16 cial, candidate for state office, or a member of the immediate
17 family of the state official or candidate for state office that
18 is equal to an amount of \$1,000.00 or more.

19 (g) The identity of all positions held by the state official
20 or candidate for state office during the preceding calendar year
21 as an officer, director, trustee, partner, proprietor, represen-
22 tative, employee, or consultant of a corporation, partnership, or
23 other business enterprise; of a nonprofit organization; of a
24 labor organization; or of an educational or other institution.
25 This subdivision does not require the reporting of a position
26 held in a religious, social, fraternal, or political entity, or
27 of a position solely of an honorary nature.

1 (h) A description, including the dates, parties, and terms,
2 of an agreement or arrangement by or with the state official or
3 candidate for state office with respect to future employment, a
4 leave of absence during the state official's term of office, con-
5 tinuation of payments by a former employer, or continuation of
6 participation in an employee benefit plan maintained by a former
7 employer.

8 (i) A brief description and value of each reimbursement of
9 \$100.00 or more received during the previous calendar year by the
10 state official, the candidate for state office, a member of the
11 immediate family of the state official or candidate for state
12 office, or a staff member of the state official or candidate for
13 state office for the cost of transportation, accommodation, or
14 meals.

15 Sec. 6. (1) Except as provided in subsection (2), an amount
16 or value included in a report under section 5 shall be reported
17 as an exact amount or value.

18 (2) An amount or value reported under section 5(b) to (f)
19 may be reported by category as follows:

20 (a) Less than \$1,000.00.

21 (b) \$1,000.00 or more but less than \$2,500.00.

22 (c) \$2,500.00 or more but less than \$5,000.00.

23 (d) \$5,000.00 or more but less than \$10,000.00.

24 (e) \$10,000.00 or more but less than \$15,000.00.

25 (f) \$15,000.00 or more but less than \$25,000.00.

26 (g) \$25,000.00 or more but less than \$50,000.00.

1 (h) \$50,000.00 or more but less than \$100,000.00.

2 (i) \$100,000.00 or more but less than \$250,000.00.

3 (j) \$250,000.00 or more but less than \$500,000.00

4 (k) \$500,000.00 or more but less than \$1,000,000.00

5 (l) \$1,000,000.00 or more.

6 Sec. 7. A report under section 5 may omit any of the
7 following:

8 (a) Information required to be reported under the Michigan
9 campaign finance act, Act No. 388 of the Public Acts of 1976,
10 being sections 169.201 to 169.282 of the Michigan Compiled Laws.

11 (b) A gift from the state official, the candidate for state
12 office, or a relative within the third degree of consanguinity to
13 the state official or candidate for state office if received by
14 the state official, the candidate for state office, or a relative
15 within the third degree of consanguinity.

16 (c) A liability owed to the state official, the candidate
17 for state office, or a relative within the third degree of con-
18 sanguinity to the state official or candidate for state office if
19 lent by the state official, the candidate for state office, or a
20 relative within the third degree of consanguinity.

21 (d) An item otherwise required to be reported under
22 section 5(d), (e), or (f) about which all of the following are
23 true:

24 (i) The item represents the sole financial interest and
25 responsibility of a member of the immediate family of the state
26 official or candidate for state office of which the state

1 official or candidate for state office does not have actual
2 knowledge.

3 (ii) The item is not in any way, past or present, derived
4 from the income, assets, or activities of the state official or
5 candidate for state office.

6 (iii) The state official or candidate for state office does
7 not derive, or expect to derive, financial benefit from the
8 item.

9 (e) An item that concerns a spouse who is living separate
10 and apart from the state official or candidate for state office
11 with the intention of terminating the marriage or maintaining a
12 legal separation.

13 (f) An item that concerns income or obligations of the state
14 official or candidate for state office arising from dissolution
15 of his or her marriage or a permanent legal separation from his
16 or her spouse.

17 Sec. 8. The secretary of state shall do all of the
18 following:

19 (a) Prepare and make available appropriate forms and
20 instructions for the reports required by this act.

21 (b) Receive reports required by this act.

22 (c) Make available for public use a report filed under this
23 act within 30 days after the report is filed as provided in the
24 freedom of information act, Act No. 442 of the Public Acts of
25 1976, being sections 15.231 to 15.246 of the Michigan Compiled
26 Laws.

1 (d) Promulgate rules and issue declaratory rulings to
2 implement this act pursuant to the administrative procedures act
3 of 1969, Act No. 306 of the Public Acts of 1969, being sections
4 24.201 to 24.328 of the Michigan Compiled Laws.

5 (e) Conduct investigations as may be necessary to determine
6 if there is reason to believe a violation of this act occurred.
7 Investigations shall be pursuant to the procedures set forth in
8 Act No. 306 of the Public Acts of 1969.

9 Sec. 9. (1) A citizen of this state may file a complaint
10 with the secretary of state alleging a violation of this act.
11 The secretary of state, upon receipt of a complaint, shall inves-
12 tigate the allegations in accordance with the rules promulgated
13 under section 8.

14 (2) If the secretary of state, upon investigation, deter-
15 mines that there is reason to believe a violation of this act
16 occurred, the secretary of state shall forward the results of
17 that investigation to the attorney general for enforcement of
18 this act.

19 Sec. 10. (1) The attorney general shall enforce this act
20 against an individual who violates this act.

21 (2) A default in the payment of a civil fine ordered under
22 this act or an installment of the fine may be remedied by any
23 means authorized under the revised judicature act of 1961, Act
24 No. 236 of the Public Acts of 1961, being sections 600.101 to
25 600.9947 of the Michigan Compiled Laws.

1 Sec. 11. (1) An individual who knowingly falsifies or
2 knowingly fails to file a report required by this act is liable
3 for a civil fine of \$5,000.00 or less.

4 (2) An individual who fails to file a report required by
5 this act is liable for a civil fine of \$500.00 or less.