

SENATE BILL NO. 788

December 09, 2021, Introduced by Senators RUNESTAD, WOZNIAK, DALEY and THEIS and referred to the Committee on Elections.

A bill to amend 1976 PA 388, entitled "Michigan campaign finance act," by amending sections 3, 11, 12, 21, and 24 (MCL 169.203, 169.211, 169.212, 169.221, and 169.224), sections 3 and 11 as amended by 2017 PA 119 and sections 12, 21, and 24 as amended by 2019 PA 93, and by adding section 21b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) "Candidate" means an individual who meets 1 or
2 more of the following criteria:

1 (a) Files a fee, an affidavit of incumbency, or a nominating
2 petition for an elective office.

3 (b) Is nominated as a candidate for elective office by a
4 political party caucus or convention and whose nomination is
5 certified to the appropriate filing official.

6 (c) Receives a contribution, makes an expenditure, or gives
7 consent for another person to receive a contribution or make an
8 expenditure with a view to bringing about the individual's
9 nomination or election to an elective office, whether or not the
10 specific elective office for which the individual will seek
11 nomination or election is known at the time the contribution is
12 received or the expenditure is made.

13 (d) Is ~~an officeholder who is the subject of a recall~~
14 ~~vote.~~ **candidate.**

15 (e) Holds an elective office, unless the officeholder is
16 constitutionally or legally barred from seeking reelection or fails
17 to file for reelection to that office by the applicable filing
18 deadline. An individual described in this subdivision is considered
19 to be a candidate for reelection to that same office for the
20 purposes of this act only.

21 For purposes of sections 61 to 71, "candidate" only means, in
22 a primary election, a candidate for the office of governor and, in
23 a general election, a candidate for the office of governor or
24 lieutenant governor. However, the candidates for the office of
25 governor and lieutenant governor of the same political party in a
26 general election are considered as 1 candidate.

27 (2) "Candidate committee" means the committee designated in a
28 candidate's filed statement of organization as that individual's
29 candidate committee. A candidate committee must be under the

1 control and direction of the candidate named in the same statement
 2 of organization. Notwithstanding subsection (4), an individual,
 3 **except for a recall candidate**, shall form a candidate committee
 4 under section 21 if the individual becomes a candidate under
 5 subsection (1).

6 (3) "Closing date" means the date through which a campaign
 7 statement is required to be complete.

8 (4) "Committee" means a person that receives contributions or
 9 makes expenditures for the purpose of influencing or attempting to
 10 influence the action of the voters for or against the nomination or
 11 election of a candidate, the qualification, passage, or defeat of a
 12 ballot question, or the qualification of a new political party, if
 13 contributions received total \$500.00 or more in a calendar year or
 14 expenditures made total \$500.00 or more in a calendar year. Except
 15 as restricted or prohibited by this act or other state or federal
 16 law, a committee may also make other lawful disbursements. An
 17 individual, other than a candidate, does not constitute a
 18 committee. A person, other than a committee registered under this
 19 act, making an expenditure to a ballot question committee or an
 20 independent expenditure committee, ~~shall-is~~ not, for that reason,
 21 ~~be~~-considered a committee or ~~be~~-required to file a report for the
 22 purposes of this act unless the person solicits or receives
 23 contributions for the purpose of making an expenditure to that
 24 ballot question committee or independent expenditure committee.

25 Sec. 11. (1) "Payroll deduction plan" means any system in
 26 which an employer deducts any amount of money from the wages,
 27 earnings, or compensation of an employee.

28 (2) "Person" means a business, individual, proprietorship,
 29 limited liability company, firm, partnership, joint venture,

1 syndicate, business trust, labor organization, company,
2 corporation, association, committee, or any other organization or
3 group of persons acting jointly.

4 (3) "Political committee" means a committee that is not a
5 candidate committee, **recall committee**, political party committee,
6 house or senate political party caucus committee, independent
7 committee, independent expenditure committee, or ballot question
8 committee.

9 (4) "Political merchandise" means goods such as bumper
10 stickers, pins, hats, beverages, literature, or other items sold by
11 a person at a fund raiser or to the general public for publicity or
12 for the purpose of raising funds to be used in supporting or
13 opposing a candidate for nomination for or election to an elective
14 office, in supporting or opposing the qualification, passage, or
15 defeat of a ballot question, or in supporting or opposing the
16 qualification of a new political party.

17 (5) "Political party" means a political party that has a right
18 under law to have the names of its candidates listed on the ballot
19 in a general election.

20 (6) "Political party committee" means a state central,
21 district, or county committee of a political party or a party
22 attempting to qualify as a new political party under section 685 of
23 the Michigan election law, 1954 PA 116, MCL 168.685, that is a
24 committee. Each state central committee shall designate the
25 official party county and district committees. There must not be
26 more than 1 officially designated political party committee per
27 county and per congressional district.

28 (7) "Public body" means 1 or more of the following:

29 (a) A state agency, department, division, bureau, board,

1 commission, council, authority, or other body in the executive
2 branch of state government.

3 (b) The legislature or an agency, board, commission, or
4 council in the legislative branch of state government.

5 (c) A county, city, township, village, intercounty, intercity,
6 or regional governing body; a council, school district, special
7 district, or municipal corporation; or a board, department,
8 commission, or council or an agency of a board, department,
9 commission, or council.

10 (d) Any other body that is created by state or local authority
11 or is primarily funded by or through state or local authority, if
12 the body exercises governmental or proprietary authority or
13 performs a governmental or proprietary function.

14 Sec. 12. (1) "Qualifying contribution" means a contribution of
15 money made by a written instrument, credit card, or debit card by
16 an individual to the candidate committee of a candidate for the
17 office of governor that is \$100.00 or less and made after April 1
18 of the year preceding a year in which a governor is to be elected.
19 Not more than \$100.00 of an individual's total aggregate
20 contribution may be used as a qualifying contribution in a calendar
21 year. Qualifying contribution does not include a subscription,
22 loan, advance, deposit of money, in-kind contribution or
23 expenditure, or anything else of value except as prescribed in this
24 act. Qualifying contribution does not include a contribution by an
25 individual who resides outside of this state. For purposes of this
26 subsection, an individual is considered to reside in this state if
27 he or she is considered a resident of this state under the Michigan
28 election law, 1954 PA 116, MCL 168.1 to 168.992.

29 (2) "Recall candidate" means an officeholder for whom a recall

1 petition has been determined to be sufficient under section 963 of
2 the Michigan election law, 1954 PA 116, MCL 168.963.

3 (3) "Recall committee" means the committee designated in a
4 recall candidate's filed statement of organization as that
5 individual's recall committee.

6 (4) ~~(2)~~—"Senate political party caucus committee" means an
7 independent committee established by a political party caucus of
8 the state senate under section 24a.

9 (5) ~~(3)~~—"State elective office" means a statewide elective
10 office or the office of state legislator.

11 (6) ~~(4)~~—"Statewide elective office" means the office of
12 governor, lieutenant governor, secretary of state, or attorney
13 general, justice of the supreme court, member of the state board of
14 education, regent of the University of Michigan, member of the
15 board of trustees of Michigan State University, or member of the
16 board of governors of Wayne State University.

17 Sec. 21. (1) A candidate, **except for a recall candidate**,
18 within 10 days after becoming a candidate, shall form a candidate
19 committee. An individual who is a candidate for more than 1 office
20 shall form a candidate committee for each office for which the
21 individual is a candidate, if at least 1 of the offices is a state
22 elective office. A candidate shall not form more than 1 candidate
23 committee for each office for which the individual is a candidate.

24 (2) A candidate committee must have a treasurer who is a
25 qualified elector of this state. A candidate may appoint himself or
26 herself as the candidate committee treasurer.

27 (3) A committee other than a candidate committee **or a recall**
28 **committee** must have a treasurer who is a qualified elector of this
29 state if the committee conducts business through an office or other

1 facility located in this state.

2 (4) If a committee is not required to have as its treasurer an
3 individual who is a qualified elector of this state, the committee
4 may have as its treasurer an individual who is a resident of
5 another state. A committee with a nonresident treasurer shall file,
6 with its statement of organization, an irrevocable written
7 stipulation, signed by the treasurer, agreeing that legal process
8 affecting the committee, served on the secretary of state or an
9 agent designated by the secretary of state, has the same effect as
10 if personally served on the committee. This appointment remains in
11 force as long as any liability of the committee remains outstanding
12 within this state.

13 (5) If the secretary of state or designated agent of the
14 secretary of state is served with legal process under subsection
15 (4), the secretary of state shall promptly notify the committee's
16 treasurer by certified mail at the last known address of the
17 committee shown on the committee's statement of organization.

18 (6) Except as provided by law, a candidate committee or a
19 committee described in subsection (3) shall have 1 account in a
20 financial institution in this state as an official depository to
21 deposit all contributions received by the committee in the form of
22 or which are converted to money, checks, or other negotiable
23 instruments and to make all expenditures. The committee shall
24 designate that financial institution as its official depository.
25 The establishment of an account in a financial institution is not
26 required until the committee receives a contribution or makes an
27 expenditure. Candidate committees shall only use secondary
28 depositories to deposit contributions and promptly transfer the
29 deposits to the committee's official depository, or to deposit the

1 proceeds of a joint fund-raiser under section 44(4) and transfer
2 each committee's share of any receipts from the joint fund-raiser.
3 A committee described in subsection (3) shall only use secondary
4 depositories for any of the following:

5 (a) To deposit contributions and promptly transfer the
6 deposits to the committee's official depository.

7 (b) To deposit the proceeds of a joint fund-raiser under
8 section 44(4) and transfer each committee's share of any receipts
9 from the joint fund-raiser.

10 (c) To deposit, divide, and transfer contributions that are
11 aggregated with dues or other payments.

12 (7) Except as provided by law, a committee described in
13 subsection (4) shall have 1 account in a financial institution as
14 its official depository to deposit all contributions received by
15 the committee in the form of or which are converted to money,
16 checks, or other negotiable instruments and to make all
17 expenditures. The committee shall designate that financial
18 institution as its official depository. The establishment of an
19 account in a financial institution is not required until the
20 committee receives a contribution or makes an expenditure. A
21 committee described in subsection (4) shall only use secondary
22 depositories for any of the following:

23 (a) To deposit contributions and promptly transfer the
24 deposits to the committee's official depository.

25 (b) To deposit the proceeds of a joint fund-raiser under
26 section 44(4) and transfer each committee's share of any receipts
27 from the joint fund-raiser.

28 (c) To deposit, divide, and transfer contributions that are
29 aggregated with dues or other payments.

1 (8) A committee shall not accept a contribution or make an
2 expenditure if that committee does not have a treasurer. When the
3 office of treasurer in a candidate committee is vacant, the
4 candidate is the treasurer until the candidate appoints a new
5 treasurer.

6 (9) A committee shall not make an expenditure without the
7 authorization of the treasurer or the treasurer's designee. The
8 contributions received or expenditures made by a candidate or an
9 agent of a candidate are considered received or made by the
10 candidate committee.

11 (10) Contributions received by an individual acting in behalf
12 of a committee must be reported promptly to the committee's
13 treasurer not later than 5 days before the closing date of any
14 campaign statement required to be filed by the committee, and must
15 be reported to the committee treasurer immediately if the
16 contribution is received less than 5 days before the closing date.

17 (11) A contribution is considered received by a committee when
18 it is received by the committee treasurer or a designated agent of
19 the committee treasurer although the contribution may not be
20 deposited in the official depository by the reporting deadline.

21 (12) Contributions received by a committee must not be
22 commingled with other funds of an agent of the committee or of any
23 other person. Contributions are not considered to be commingled if
24 that contribution is either of the following:

25 (a) A contribution received by a person for transmission to a
26 separate segregated fund as described in section 55(7).

27 (b) A contribution made by 1 or more persons through a person
28 if all of the following are met:

29 (i) The individual contribution or aggregated contribution is

1 accompanied by or logically associated with all information
2 required under section 26 for each individual contributor.

3 (ii) The person making the contribution is the original source
4 of the contribution.

5 (iii) The contribution is not obtained through use of coercion
6 or physical force, as a condition of employment or membership, or
7 by using or threatening to use job discrimination or financial
8 reprisals.

9 (iv) Only the person making the contribution exercises any
10 control over the making of, or the amount or recipient of, the
11 contribution.

12 (v) The contribution is not otherwise prohibited by this act.

13 (13) A person that violates this section is subject to a civil
14 fine of not more than \$1,000.00.

15 **Sec. 21b. (1) A recall candidate, within 10 days after**
16 **becoming a recall candidate, shall form a recall committee. A**
17 **recall candidate shall not form more than 1 recall committee.**

18 (2) A recall committee must have a treasurer who is a
19 qualified elector of this state. A candidate may appoint himself or
20 herself as the recall committee treasurer.

21 (3) Except as provided by law, a recall committee shall have 1
22 account in a financial institution in this state as an official
23 depository to deposit all contributions received by the recall
24 committee in the form of or that are converted to money, checks, or
25 other negotiable instruments and to make all expenditures. The
26 recall committee shall designate that financial institution as its
27 official depository. The establishment of an account in a financial
28 institution is not required until the recall committee receives a
29 contribution or makes an expenditure.

1 (4) A recall committee shall not accept a contribution or make
2 an expenditure if that recall committee does not have a treasurer.
3 When the office of treasurer in a recall committee is vacant, the
4 recall candidate is the treasurer until the recall candidate
5 appoints a new treasurer.

6 (5) A recall committee shall not make an expenditure without
7 the authorization of the treasurer or the treasurer's designee. The
8 contributions received or expenditures made by a recall candidate
9 or an agent of a recall candidate are considered received or made
10 by the recall committee.

11 (6) Contributions received by an individual acting in behalf
12 of a recall committee must be reported promptly to the recall
13 committee's treasurer not later than 5 days before the closing date
14 of any campaign statement required to be filed by the recall
15 committee, and must be reported to the recall committee treasurer
16 immediately if the contribution is received less than 5 days before
17 the closing date.

18 (7) A contribution is considered received by a recall
19 committee when it is received by the recall committee treasurer or
20 a designated agent of the recall committee treasurer although the
21 contribution may not be deposited in the official depository by the
22 reporting deadline.

23 (8) Contributions received by a recall committee must not be
24 commingled with other funds of an agent of the recall committee or
25 of any other person.

26 (9) The recall committee must be terminated within 30 days
27 after the results of the recall election have been certified.
28 Notwithstanding section 45, all unexpended funds in the recall
29 committee must be returned to donors.

1 **(10) A person that violates this section is subject to a civil**
 2 **fine of not more than \$1,000.00.**

3 Sec. 24. (1) A committee shall file a statement of
 4 organization with the filing officials designated in section 36 to
 5 receive the committee's campaign statements. A committee shall file
 6 a statement of organization within 10 days after the committee is
 7 formed. A filing official shall maintain a statement of
 8 organization filed by a committee until 5 years after the official
 9 date of the committee's dissolution. A person who fails to file a
 10 statement of organization required by this subsection shall pay a
 11 late filing fee of \$10.00 for each business day the statement
 12 remains not filed in violation of this subsection. The late filing
 13 fee must not exceed \$300.00. A person who violates this subsection
 14 by failing to file for more than 30 days after a statement of
 15 organization is required to be filed is guilty of a misdemeanor
 16 punishable by a fine of not more than \$1,000.00.

17 (2) The statement of organization required to be filed under
 18 subsection (1) must include the following information:

19 (a) The name, street address, and if available, the ~~electronic~~
 20 ~~mail-email~~ address and telephone number of the committee, and the
 21 ~~electronic mail-email~~ address of the candidate. If a committee is a
 22 candidate committee **or recall committee**, the committee name must
 23 include the first and last name of the candidate. A committee
 24 address may be the home address of the candidate or treasurer of
 25 the committee.

26 (b) The name, street address, and if available, the ~~electronic~~
 27 ~~mail-email~~ address and telephone number of the treasurer or other
 28 individual designated as responsible for the committee's record
 29 keeping, report preparation, or report filing.

1 (c) The name and address of the financial institution in which
2 the official committee depository is or is intended to be located,
3 and the name and address of each financial institution in which a
4 secondary depository is or is intended to be located.

5 (d) The full name of the office being sought by, including
6 district number or jurisdiction, and the county residence of each
7 candidate supported or opposed by the committee.

8 (e) A brief statement identifying the substance of each ballot
9 question supported or opposed by the committee. If the ballot
10 question supported or opposed by the committee is a local ballot
11 question, the committee shall identify the county in which the
12 greatest number of registered voters eligible to vote on the ballot
13 question reside.

14 (f) Identification of the committee as a candidate committee,
15 **recall committee**, political party committee, independent committee,
16 independent expenditure committee, political committee, or ballot
17 question committee if it is identifiable as such a committee.

18 (3) An independent committee or political committee shall
19 include in the name of the committee the name of the person or
20 persons that sponsor the committee, if any, or with whom the
21 committee is affiliated. A person, other than an individual or a
22 committee, sponsors or is affiliated with an independent committee
23 or political committee if that person establishes, directs,
24 controls, or financially supports the administration of the
25 committee. For the purposes of this subsection, a person does not
26 financially support the administration of a committee by merely
27 making a contribution to the committee.

28 (4) If any of the information required in a statement of
29 organization is changed, the committee shall file an amendment when

1 the next campaign statement is required to be filed.

2 (5) When filing a statement of organization, a committee,
3 other than an independent committee, a political committee, or a
4 political party committee, may indicate in a written statement
5 signed by the treasurer of the committee that the committee does
6 not expect for each election to receive an amount in excess of
7 \$1,000.00 or expend an amount in excess of \$1,000.00. The treasurer
8 of a committee of an incumbent judge or supreme court justice is
9 considered to have made the statement required under this
10 subsection following appointment or election of that judge or
11 justice and is not required to file a written statement under this
12 subsection indicating that the committee does not expect for each
13 election to receive or expend an amount in excess of \$1,000.00.

14 (6) When filing a statement of organization, an independent
15 committee, an independent expenditure committee, a political
16 committee, or a political party committee may indicate in a written
17 statement signed by the treasurer of the committee that the
18 committee does not expect in a calendar year to receive or expend
19 an amount in excess of \$1,000.00.

20 (7) Upon the dissolution of a committee, the committee shall
21 file a statement indicating dissolution with the filing officials
22 with whom the committee's statement of organization was filed.
23 Dissolution of a committee must be accomplished pursuant to rules
24 promulgated by the secretary of state under the administrative
25 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

26 (8) A candidate committee that files a written statement under
27 subsection (5) or that is considered to have made a statement under
28 subsection (5) is not required to file a dissolution statement
29 under subsection (7) if the committee failed to receive or expend

1 an amount in excess of \$1,000.00 and 1 of the following applies:

2 (a) The candidate was defeated in an election and has no
3 outstanding campaign debts or assets.

4 (b) The candidate vacates an elective office and has no
5 outstanding campaign debts or assets.

6 (9) A political committee organized for the purpose of making
7 independent expenditures formed before December 31, 2019 is
8 considered an independent expenditure committee. The secretary of
9 state may amend the statement of organization for any committee
10 affected by this subsection.