House
Legislative
Analysis
Section

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CAMPAIGN FINANCE PROVISIONS

House Bill 4252 (Substitute H-1)
House Bill 4255 with committee amendments
First Analysis (2-11-88)

Sponsor: Rep. Maxine Berman
Committee: House Oversight

THE APPARENT PROBLEM:

The Secretary of State believes the campaign finance act contains serious flaws that militate against its avowed purpose: to fully disclose spending on elections. Because the act requires political action committees (PACs) to disclose election expenses only when made directly to or on behalf of candidates, it is possible for a committee to raise large sums of money, transfer it to a second PAC and never have to file a full disclosure report. The second PAC must only reveal the lump sum given by the first PAC, and thus the people never know the identity of the original contributors. Moreover, independent and political committees now must file up to ten or a dozen reports a year, especially when they become involved in numerous special elections, including primaries. The Bureau of Elections in the Department of State thus finds it difficult to obtain an accurate picture of a committee's activity because of the large number of reports in each file. (They must make the reports no later than the eleventh day before an election and again no later than the thirtieth day after an election.) Indeed, a survey of PACs reveals that more than 70 percent of those responding find the present requirements burdensome, preferring a quarterly reporting system instead. Also, the act places Michigan in the ludicrous position of exacting misdemeanor penalties for those who miss filing deadlines, but imposing no penalty on someone who knowingly files an incomplete or inaccurate statement.

In addition, the act was amended in 1985 to raise to $1,000 the maximum amount a committee may spend or receive in an election before it is required under the act to file detailed pre-election, post-election, and annual campaign statements with the Department of State. However, unlike candidate, political party, and ballot proposal committees, independent and political committees seldom organize election-by-election, but instead keep their books on a calendar year basis, primarily because they cannot predict how many elections they will be involved in. An independent committee could spend money in any number of primary, special and general elections. Although the secretary of state has resisted this interpretation, the law could allow reporting waivers on an election-by-election basis, and thus a PAC could in theory spend several hundred thousand dollars in every election for a state or local office without becoming subject to full disclosure requirements as long as it did not spend more than $1,000 in any single election. In the belief that the people should know who is spending money to elect whom (or enact what), the secretary of state has asked the legislature to ensure that independent and political committees be specifically subject to the $1,000 reporting maximum on an annual basis.

THE CONTENT OF THE BILLS:

House Bill 4252 would require independent and political committees to file campaign statements according to the following schedule:

a) for odd-numbered years, no later than January 31 to cover activity through December 31 of the previous year; no later than July 25 to cover activity through July 20; and no later than October 25 to cover activity through October 20; and,

b) for even-numbered years, no later than April 25 to cover activity through April 20; no later than July 25 to cover activity through July 20; and no later than October 25 to cover activity through October 20.

Other committees (candidate committees, political party committees, and ballot proposal committees) would continue to report expenditures on behalf of or opposing a candidate no later than the eleventh day before an election and no later than the thirtieth day after an election.

The bill would also make it a misdemeanor punishable by maximum penalties of $1,000 and imprisonment for 90 days to knowingly file an incomplete or inaccurate campaign statement. Penalties for missing deadlines would be assessed using business days instead of calendar days. The bill would also define, for a committee other than a candidate committee, a person subject to a penalty as that committee and its treasurer, and for a candidate committee, the candidate, the committee, and the committee's treasurer. It would also remove obsolete language referring to filings reported before November 2, 1982.

In addition, the bill would require an independent or political committee required to file with the secretary of state, that made an independent expenditure 45 days prior to a special election to file a report of the expenditure within 48 hours with the secretary of state. The report would have to be made on a form provided by the secretary of state and would have to include the date of the independent expenditure, the amount, a brief description of the nature of the expenditure, and the name and address of the person to whom it was paid. The brief description would have to include the name and office sought by the candidate or the name of the ballot question, and whether the expenditure supports or opposes the candidate or question. An independent or political committee, however, would not be required to submit this report if the independent expenditure was going to be reported in a campaign statement required to be filed before the election in which the expenditure was made.

MCL 162.233

House Bill 4255 would continue the present provisions for candidate committees, political party committees, and ballot proposal committees. However, it would allow independent committees and political committees to claim exemptions from the full reporting requirements based on the calendar year, rather than on the basis of individual

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elections. That is, an independent committee or a political committee that did not expect to receive or spend more than $1,000 in a calendar year would be able to make a sworn statement to that effect when filing its statement of organization, and if the committee's contributions and expenditures did not exceed $1,000 in that calendar year, it would not be required to file any further campaign statements. If it did exceed $1,000 in receipts and expenditures for the calendar year, it would then be subject to the act's full campaign filing requirements. Also, the bill would provide that penalties for missing deadlines would be assessed using business days instead of calendar days.

MCL 169.244

House Bill 4252 is tie-barred to House Bill 4255.

FISCAL IMPLICATIONS:

The Department of State reports that neither bill would have fiscal implications for the state. (2-8-88)

ARGUMENTS:

For:

House Bill 4252 would improve disclosure of election spending by making political and independent committees report all their activities, not just those on behalf of candidates, three times a year. Also, the bill would provide another safeguard by requiring independent committees and PACs that are currently required to file with the secretary of state to submit a detailed expenditure report within 48 hours if they have made "independent" expenditures 45 days prior to a special election. The deadlines would allow the secretary of state to monitor pre-primary and pre-general election spending much more accurately. Moreover, filing reports three times a year would make things considerably simpler for committees themselves, who now must file as many as ten or twelve reports a year in some years. Penalties for missing deadlines would be made fairer because the bill would count business days only in computing time. Finally, the bill would exact a penalty for knowingly filing an incomplete or inaccurate statement, a provision long overdue.

For:

House Bill 4255 would make the campaign finance act's full disclosure waiver requirements conform to the book-keeping practices of independent and political committees, which keep their books year round instead of on an election-by-election basis. Most important, it would strengthen the act's disclosure requirements by making sure that independent and political committees file complete financial statements whenever they receive or spend more than $1,000 in a year, instead of on a per-election basis. Under current law, a PAC could spend money in several elections around the state, and never have to file a full statement if it did not give more than $1,000 in any single election. Also, the bill would adjust penalties for missing deadlines so that only business days would be counted when computing overdue time.

POSITIONS:

The Department of State supports the bills. (2-8-88)

The Michigan State Chamber of Commerce supports the bills. (2-8-88)

Common Cause of Michigan supports the bills. (2-4-88)