

HOUSE BILL No. 4203

January 30, 1997, Introduced by Reps. Baade, Lowe, Bogardus, Goschka, Baird, DeHart, Hammerstrom, Cherry, Prusi, Hanley and Galloway and referred to the Committee on House Oversight and Ethics.

A bill to amend 1976 PA 388, entitled
"Michigan campaign finance act,"
by amending sections 15, 16, and 17 (MCL 169.215, 169.216, and
169.217), sections 15 and 17 as amended by 1989 PA 95 and section
16 as amended by 1992 PA 188, and by adding section 18.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 15. (1) The secretary of state shall do all of the
2 following:

3 (a) Make available through his or her offices, and furnish
4 to county clerks, appropriate forms, instructions, and manuals
5 required by this act.

6 (b) Develop a filing, coding, and cross-indexing system for
7 the filing of required reports and statements consistent with the
8 purposes of this act, and supervise the implementation of the
9 filing systems by the clerks of the counties.

1 (c) Receive all statements and reports required by this act
2 to be filed with the secretary of state.

3 (d) Prepare forms, instructions, and manuals required under
4 this act.

5 (e) Promulgate rules and issue declaratory rulings to imple-
6 ment this act pursuant to the administrative procedures act of
7 1969, ~~Act No. 306 of the Public Acts of 1969, as amended, being~~
8 ~~sections 24.201 to 24.328 of the Michigan Compiled Laws~~ 1969 PA
9 306, MCL 24.201 TO 24.328.

10 (f) Upon receipt of a written request and the required
11 filing, waive payment of a late filing fee if the request for the
12 waiver is based on good cause and accompanied by adequate
13 documentation. ~~Any~~ ONE OR MORE of the following reasons
14 ~~shall~~ constitute good cause for a late filing fee waiver:

15 (i) The incapacitating physical illness, hospitalization,
16 accident involvement, death, or incapacitation for medical rea-
17 sons of a person required to file, a person whose participation
18 is essential to the preparation of the statement or report, or a
19 member of the immediate family of these persons.

20 (ii) Other unique, unintentional factors beyond the filer's
21 control not stemming from a negligent act or nonaction so that a
22 reasonably prudent person would excuse the filing on a temporary
23 basis. These factors include the loss or unavailability of
24 records due to a fire, flood, theft, or similar reason and diffi-
25 culties related to the transmission of the filing to the filing
26 official, such as exceptionally bad weather or strikes involving
27 transportation systems.

1 (2) A declaratory ruling shall be issued under this section
2 only if the person requesting the ruling has provided a reason-
3 ably complete statement of facts necessary for the ruling or if
4 the secretary of state has permitted the person requesting the
5 ruling an opportunity to supply supplemental facts necessary for
6 the ruling. A request for a declaratory ruling that is submitted
7 to the secretary of state shall be made available for public
8 inspection within 48 hours after its receipt. An interested
9 person may submit written comments regarding the request to the
10 secretary of state within 10 business days after the date the
11 request is made available to the public. Within 45 business days
12 after receiving a declaratory ruling request, the secretary of
13 state shall make a proposed response available to the public. An
14 interested person may submit written comments regarding the pro-
15 posed response to the secretary of state within 5 business days
16 after the date the proposal is made available to the public.
17 Except as otherwise provided in this section, the secretary of
18 state shall issue a declaratory ruling within 60 business days
19 after a request for a declaratory ruling is received. If the
20 secretary of state refuses to issue a declaratory ruling, the
21 secretary of state shall notify the person making the request of
22 the reasons for the refusal. The secretary of state may issue an
23 interpretative statement providing an informational response to
24 the question presented. A declaratory ruling or interpretative
25 statement issued under this section shall not state a general
26 rule of law, other than that which is stated in this act, until
27 the general rule of law is promulgated by the secretary of state

1 as a rule pursuant to the administrative procedures act of 1969,
2 ~~Act No. 306 of the Public Acts of 1969, being sections 24.201 to~~
3 ~~24.328 of the Michigan Compiled Laws~~ 1969 PA 306, MCL 24.201 TO
4 24.328, or pursuant to judicial order.

5 (3) Under extenuating circumstances, the secretary of state
6 may issue a notice extending for not more than 30 business days
7 the period during which the secretary of state shall respond to a
8 request for a declaratory ruling. The secretary of state shall
9 not issue more than 1 notice of extension for a particular
10 request. A person requesting a declaratory ruling may waive, in
11 writing, the time limitations provided by this section.

12 (4) An annual summary of the declaratory rulings and inter-
13 pretative statements issued by the secretary of state shall be
14 made available to the public.

15 (5) A person may file a complaint with the secretary of
16 state alleging a violation of this act. Upon receipt of a com-
17 plaint, the secretary of state shall investigate the allegations
18 pursuant to the rules promulgated under this act. If the secre-
19 tary of state determines that there may be reason to believe that
20 a violation of this act has occurred, the secretary of state
21 shall endeavor to correct the violation or prevent a further vio-
22 lation by using informal methods such as a conference, concili-
23 ation, or persuasion, and may enter into a conciliation agreement
24 with the person involved. Unless violated, a conciliation agree-
25 ment is a complete bar to any further action with respect to mat-
26 ters covered in the conciliation agreement. If the secretary of
27 state is unable to correct or prevent further violation by these

1 informal methods, the secretary of state may refer the matter to
2 the attorney general for the enforcement of any criminal penalty
3 provided by this act or commence a hearing pursuant to
4 subsection (6).

5 (6) The secretary of state may commence a hearing to deter-
6 mine whether a civil violation of this act has occurred. A hear-
7 ing shall not be commenced during the period beginning 30 days
8 before an election in which the committee has received or
9 expended money and ending the day after that election except with
10 the consent of the person suspected of committing a civil
11 violation. The hearing shall be conducted ~~in accordance with~~
12 PURSUANT TO the procedures set forth in chapter 4 of the adminis-
13 trative procedures act of 1969, ~~Act No. 306 of the Public Acts~~
14 ~~of 1969, being sections 24.271 to 24.287 of the Michigan Compiled~~
15 ~~Laws~~ 1969 PA 306, MCL 24.271 TO 24.287. If after a hearing the
16 secretary of state determines that a violation of this act has
17 occurred, the secretary of state may issue an order requiring the
18 person to pay a civil fine equal to the amount of the improper
19 contribution or expenditure plus not more than \$1,000.00 for each
20 violation. A final decision and order issued by the secretary of
21 state is subject to judicial review as provided by chapter 6 of
22 the administrative procedures act of 1969, ~~Act No. 306 of the~~
23 ~~Public Acts of 1969, being sections 24.301 to 24.306 of the~~
24 ~~Michigan Compiled Laws~~ 1969 PA 306, MCL 24.301 TO 24.306. ~~A~~
25 THE SECRETARY OF STATE SHALL TRANSMIT A civil fine imposed AND
26 COLLECTED under this section ~~shall be deposited~~ TO THE STATE
27 TREASURER FOR DEPOSIT in the ~~general fund~~ SECRETARY OF STATE

1 COMPUTERIZATION FUND CREATED BY SECTION 18. The secretary of
2 state may bring an action in circuit court to recover the amount
3 of a civil fine.

4 (7) When a report or statement is filed pursuant to this
5 act, the secretary of state shall review the report or statement
6 and may investigate an apparent violation of this act pursuant to
7 the rules promulgated pursuant to this act. If the secretary of
8 state determines that there may be reason to believe a violation
9 of this act has occurred and the procedures prescribed in subsec-
10 tion (5) have been complied with, the secretary of state may
11 refer the matter to the attorney general for the enforcement of
12 any criminal penalty provided by this act, or commence a hearing
13 under subsection (6) to determine whether a civil violation of
14 this act has occurred.

15 (8) Unless otherwise specified in this act, a person who
16 violates a provision of this act is subject to a civil fine of
17 not more than \$1,000.00 for each violation. Civil fines are in
18 addition to, but not limited by, any criminal penalty prescribed
19 by this act.

20 (9) The secretary of state may waive the filing of a cam-
21 paign statement required under section 33, 34, or 35 if the clos-
22 ing date of the particular campaign statement falls on the same
23 or a later date as the closing date of the next campaign state-
24 ment filed by the same person, or if the period ~~which~~ THAT
25 would be otherwise covered by the next campaign statement filed
26 by the same person is 10 days or less.

1 (10) The clerk of each county shall do all of the
2 following:

3 (a) Make available through the county clerk's office the
4 appropriate forms, instructions, and manuals required by this
5 act.

6 (b) Under the supervision of the secretary of state, imple-
7 ment the filing, coding, and cross-indexing system prescribed for
8 the filing of reports and statements required to be filed with
9 the county clerk's office.

10 (c) Receive all statements and reports required by this act
11 to be filed with the county clerk's office.

12 (d) Upon written request, waive the payment of a late filing
13 fee if the request for a waiver is based on good cause as pre-
14 scribed in subsection ~~(1)(g)~~ (1)(F).

15 Sec. 16. (1) A filing official shall make a statement or
16 report required to be filed under this act available for public
17 inspection and reproduction ~~, commencing~~ DURING REGULAR BUSI-
18 NESS HOURS OF THE FILING OFFICIAL. THE FILING OFFICIAL SHALL
19 MAKE STATEMENTS AND REPORTS FILED UNDER THIS ACT AVAILABLE as
20 soon as practicable AFTER RECEIPT, but not later than the third
21 business day following the day on which ~~it~~ THE STATEMENT OR
22 REPORT is received. ~~, during regular business hours of the~~
23 ~~filing official.~~

24 (2) A FILING OFFICIAL SHALL PROVIDE A copy of a statement OR
25 REPORT or part of a statement ~~shall be provided by a filing~~
26 ~~official~~ OR REPORT at a reasonable charge.

1 (3) A PERSON SHALL NOT USE A statement OR REPORT open to the
2 public under this act ~~shall not be used~~ for any commercial
3 purpose.

4 (4) A FILING OFFICIAL SHALL PRESERVE A statement of organi-
5 zation filed under this act ~~shall be preserved by the filing~~
6 ~~official~~ for 5 years from the official date of the committee's
7 dissolution. A FILING OFFICIAL SHALL PRESERVE A statement or
8 report filed under this act by a candidate for an office with a
9 term exceeding 4 years ~~shall be preserved by the filing~~
10 ~~official~~ for 1 year beyond that candidate's term of office.

11 ~~Any~~ A FILING OFFICIAL SHALL PRESERVE ANY other statement or
12 report filed under this act ~~shall be preserved by the filing~~
13 ~~official~~ for 5 years from the date the filing occurred.

14 Statements and reports filed under this act may be reproduced
15 pursuant to the records media act, 1992 PA 116, MCL 24.401 TO
16 24.403. After the required preservation period, the statements
17 and reports, or the reproductions of the statements and reports,
18 shall be destroyed.

19 (5) A ~~charge~~ FILING OFFICIAL shall not ~~be collected by a~~
20 ~~filing official~~ COLLECT A FEE for the filing of a required
21 statement or report, or for a form upon which ~~the~~ A REQUIRED
22 statement or report is to be prepared. ~~, except~~ HOWEVER, A
23 FILING OFFICIAL SHALL COLLECT a late filing fee AS required by
24 this act.

25 (6) A filing official shall determine whether a statement or
26 report filed under this act complies, on its face, with the
27 requirements of this act and the rules promulgated under this

1 act. The filing official shall determine whether a statement or
2 report that is required to be filed under this act is in fact
3 filed. Within 4 business days after the deadline for filing a
4 statement or report under this act, the filing official shall
5 give notice to the filer by registered mail of an error or omis-
6 sion in the statement or report and give notice to a person the
7 filing official has reason to believe is a person required to and
8 who failed to file a statement or report. A failure to give
9 notice by the filing official under this subsection is not a
10 defense to a criminal action against the person required to
11 file.

12 (7) Within 9 business days after the report or statement is
13 required to be filed, the filer shall make any corrections in the
14 statement or report ~~filed~~ AND FILE THE CORRECTIONS with the
15 appropriate filing official. If the report or statement was not
16 filed, ~~then it shall be late filed~~ THE PERSON SHALL FILE THE
17 REPORT OR STATEMENT WITH THE APPROPRIATE FILING OFFICIAL within 9
18 business days after the time it was required to be filed, ~~and~~
19 ~~shall be~~ WHICH STATEMENT OR REPORT IS CONSIDERED LATE FILED AND
20 IS subject to late filing fees.

21 (8) After 9 business days and before 12 business days have
22 expired after the deadline for filing the statement or report,
23 the filing official shall report errors or omissions that were
24 not corrected and failures to file to the attorney general.

25 (9) A PERSON SHALL FILE A statement or report required to be
26 filed under this act ~~shall be filed~~ not later than 5 p.m. of
27 the day in which it is required to be filed. A preelection

1 statement or report due on July 25 or October 25 under section 33
2 that is postmarked by registered or certified mail, or sent by
3 express mail or other overnight delivery service, at least 2 days
4 before the deadline for filing is filed within the prescribed
5 time regardless of when it is actually delivered. Any other
6 statement or report required to be filed under this act that is
7 postmarked by registered or certified mail or sent by express
8 mail or other overnight delivery service on or before the dead-
9 line for filing is filed within the prescribed time regardless of
10 when it is actually delivered.

11 Sec. 17. (1) A person paying a late filing fee as a result
12 of that person's failure to file a statement or report shall pay
13 that fee to the filing official with whom the statement or report
14 was required to be filed.

15 (2) ~~The~~ A FILING OFFICIAL, OTHER THAN THE SECRETARY OF
16 STATE, SHALL TRANSMIT ALL late filing fees collected pursuant to
17 ~~sections 24, 33, 34, and 35,~~ THIS ACT and copying charges col-
18 lected pursuant to section 16 ~~, shall be retained by and for the~~
19 ~~use of the filing officials collecting the fees or charges to~~
20 ~~cover their expenses in administering this act~~ TO THE SECRETARY
21 OF STATE BY THE TENTH DAY OF THE MONTH FOLLOWING THE MONTH IN
22 WHICH THE FEES WERE COLLECTED. THE SECRETARY OF STATE SHALL
23 TRANSMIT ALL LATE FILING FEES COLLECTED PURSUANT TO THIS ACT AND
24 COPYING CHARGES COLLECTED PURSUANT TO SECTION 16 TO THE STATE
25 TREASURER FOR DEPOSIT IN THE SECRETARY OF STATE COMPUTERIZATION
26 FUND CREATED BY SECTION 18.

1 (3) A late filing fee assessed by a ~~county clerk~~ FILING
2 OFFICIAL, OTHER THAN THE SECRETARY OF STATE, that remains unpaid
3 for more than 60 days shall be ~~considered a debt of the county~~
4 ~~and shall be collected by the county treasurer in the same manner~~
5 ~~as other county debts are collected~~ TRANSFERRED TO THE SECRETARY
6 OF STATE FOR FURTHER COLLECTION EFFORTS. A late filing fee
7 assessed BY A COUNTY CLERK AND TRANSFERRED TO THE SECRETARY OF
8 STATE OR ASSESSED by the secretary of state that remains unpaid
9 for more than 180 days shall be referred to the department of
10 treasury for collection. THE STATE TREASURER SHALL DEPOSIT ALL
11 LATE FILING FEES COLLECTED PURSUANT TO THIS SUBSECTION IN THE
12 SECRETARY OF STATE COMPUTERIZATION FUND CREATED BY SECTION 18.

13 (4) ~~-(3)-~~ A committee, other than a candidate committee or a
14 committee making expenditures in assistance of or in opposition
15 to the qualification, passage, or defeat of a ballot question,
16 required to file with the secretary of state is not required to
17 pay a late filing fee pursuant to sections 24, 33, 34, and 35, if
18 all of the following conditions are met:

19 (a) A committee required to register as a committee fails to
20 file a statement of organization.

21 (b) The secretary of state sends to that committee notice of
22 the committee's failure to file a statement of organization.

23 (c) At the same time or after the notice described in subdi-
24 vision (b) is sent, the secretary of state sends to that commit-
25 tee notice of the committee's failure to file a campaign state-
26 ment that was due for a period that occurred before the notice of
27 failure to file a statement of organization was sent.

1 (d) Within 10 business days after the notice of failure to
2 file a statement of organization is sent, the committee files a
3 statement of organization.

4 (e) Within 10 business days after the notice of failure to
5 file a campaign statement is sent, the committee files every cam-
6 paign statement that is due.

7 (5) ~~-(4)-~~ Late filing fees that would have occurred except
8 for subsection ~~-(3)-~~ (4) shall be assessed for each statement not
9 filed before the eleventh business day after a notice of failure
10 to file is sent pursuant to subsection ~~-(3)-~~ (4).

11 (6) ~~-(5)-~~ A committee other than a candidate committee that
12 has not previously filed a statement of organization is not
13 required to pay a late filing fee pursuant to sections 24, 33,
14 34, and 35, if the committee files a statement of organization
15 and every campaign statement that is due, before the secretary of
16 state sends a notice to that committee pursuant to
17 subsection ~~-(3)-~~ (4).

18 SEC. 18. (1) THE SECRETARY OF STATE COMPUTERIZATION FUND IS
19 CREATED IN THE STATE TREASURY. THE PURPOSE OF THE SECRETARY OF
20 STATE COMPUTERIZATION FUND IS TO PROVIDE FOR THE COMPUTERIZATION
21 OF ALL CAMPAIGN FINANCE STATEMENTS AND REPORTS FILED WITH THE
22 SECRETARY OF STATE UNDER THIS ACT. THE SECRETARY OF STATE SHALL
23 ONLY USE MONEY IN THE SECRETARY OF STATE COMPUTERIZATION FUND FOR
24 THE ACQUISITION AND MAINTENANCE OF COMPUTER HARDWARE AND SOFTWARE
25 FOR AND THE PERSONNEL COSTS ASSOCIATED WITH THE INPUTTING AND
26 PROCESSING OF ALL CAMPAIGN FINANCE STATEMENTS AND REPORTS
27 REQUIRED TO BE FILED UNDER THIS ACT.

1 (2) ON OR BEFORE APRIL 1, 1998, THE SECRETARY OF STATE SHALL
2 SUBMIT TO THE LEGISLATURE A COMPREHENSIVE COMPUTERIZATION PLAN
3 THAT INCLUDES, BUT IS NOT LIMITED TO, THE FOLLOWING:

4 (A) THE STATUS OF COMPUTERIZATION OF CAMPAIGN FINANCE STATE-
5 MENTS AND REPORTS.

6 (B) AN ANALYSIS OF THE NEEDS FOR COMPUTERIZATION OF CAMPAIGN
7 FINANCE STATEMENTS AND REPORTS.

8 (C) STANDARDS FOR COMPUTERIZATION OF CAMPAIGN FINANCE STATE-
9 MENTS AND REPORTS.

10 (D) A PLAN FOR THE DISTRIBUTION OF REVENUE FROM THE SECRE-
11 TARY OF STATE COMPUTERIZATION FUND THAT PROVIDES FOR DIRECT DIS-
12 BURSEMENTS FROM THE SECRETARY OF STATE COMPUTERIZATION FUND BY
13 THE SECRETARY OF STATE. THE SECRETARY OF STATE MAY APPROVE DIS-
14 BURSEMENTS THAT INCLUDE PAYMENT FOR SERVICES PROVIDED BY EMPLOY-
15 EES OF THIS STATE OR PRIVATE VENDORS, OR BY A COMBINATION OF
16 BOTH.

17 (3) THE SECRETARY OF STATE SHALL SUBMIT TO THE LEGISLATURE
18 AN ANNUAL UPDATE TO THE COMPREHENSIVE COMPUTERIZATION PLAN.

19 (4) THE STATE TREASURER SHALL CREDIT THE SECRETARY OF STATE
20 COMPUTERIZATION FUND WITH DEPOSITS OF PROCEEDS FROM THE COLLEC-
21 TION OF REVENUE FROM CIVIL FINES AND LATE FILING FEES COLLECTED
22 UNDER THIS ACT, APPROPRIATIONS MADE TO THE FUND, AND ALL INCOME
23 FROM INVESTMENT. THE STATE TREASURER MAY INVEST MONEY CONTAINED
24 IN THE SECRETARY OF STATE COMPUTERIZATION FUND IN ANY MANNER
25 AUTHORIZED BY LAW FOR THE INVESTMENT OF STATE MONEY. HOWEVER, AN
26 INVESTMENT SHALL NOT INTERFERE WITH ANY APPORTIONMENT,
27 ALLOCATION, OR PAYMENT OF MONEY AS REQUIRED BY THIS SECTION.

1 (5) THE STATE TREASURER, AT THE DIRECTION OF THE SECRETARY
2 OF STATE, SHALL DISTRIBUTE MONEY FROM THE SECRETARY OF STATE COM-
3 PUTERIZATION FUND AT LEAST ANNUALLY AND MORE OFTEN AS THE SECRE-
4 TARY OF STATE CONSIDERS NECESSARY. MONEY IN THE SECRETARY OF
5 STATE COMPUTERIZATION FUND AT THE CLOSE OF EACH FISCAL YEAR SHALL
6 REMAIN IN THE FUND AND SHALL NOT REVERT TO THE GENERAL FUND.