

HOUSE BILL No. 5262

January 19, 2012, Introduced by Rep. Lindberg and referred to the Committee on Redistricting and Elections.

A bill to regulate political activity; to regulate certain candidates and state officials; to require certain financial statements and reports; to regulate acceptance of certain payments and other items; to prescribe the powers and duties of certain state departments and state and local officials and employees; 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 "state
2 official and candidate financial disclosure act".

3 Sec. 2. As used in this act:

4 (a) "Candidate" means that term as defined in section 3 of the
5 Michigan campaign finance act, 1976 PA 388, MCL 169.203.

6 (b) "Candidate for state office" means a candidate for any of

1 the following offices:

2 (i) Governor.

3 (ii) Lieutenant governor.

4 (iii) Attorney general.

5 (iv) Secretary of state.

6 (v) State senator.

7 (vi) State representative.

8 (vii) Head of a principal department as provided in section 3
9 of article V of the state constitution of 1963, if the office is
10 filled by election.

11 (viii) Member of a board or commission heading a principal
12 department as provided in section 3 of article V of the state
13 constitution of 1963, if the office is filled by election.

14 (ix) Judge of a court of record.

15 (x) Regent of the university of Michigan, member of the board
16 of trustees of Michigan state university, or member of the board of
17 governors of Wayne state university.

18 (c) "Earned income" means salaries, tips, and other employee
19 compensation, and net earnings from self-employment for the taxable
20 year.

21 (d) "Immediate family" means the individual's child residing
22 in the individual's household, the spouse of the individual, or a
23 person claimed by the individual or the individual's spouse as a
24 dependent for federal income tax purposes.

25 (e) "Income" means money or any thing of value received, or to
26 be received as a claim on future services, whether in the form of a
27 fee, salary, expense, allowance, forbearance, forgiveness,

1 interest, dividend, royalty, rent, capital gain, or any other form
2 of recompense that is considered income under the internal revenue
3 code.

4 (f) "State official" means any of the following:

5 (i) The governor.

6 (ii) The lieutenant governor.

7 (iii) The attorney general.

8 (iv) The secretary of state.

9 (v) A state senator.

10 (vi) A state representative.

11 (vii) The head of each principal department as provided in
12 section 3 of article V of the state constitution of 1963.

13 (viii) A member of a board or commission heading a principal
14 department as provided in section 3 of article V of the state
15 constitution of 1963.

16 (ix) The person appointed by a board or commission to be the
17 principal executive officer of a principal department as provided
18 in section 3 of article V of the state constitution of 1963.

19 (x) A judge of a court of record.

20 (xi) A regent of the university of Michigan, a member of the
21 board of trustees of Michigan state university, or a member of the
22 board of governors of Wayne state university.

23 Sec. 3. (1) If an individual was a state official at any time
24 during a calendar year, that individual shall file with the
25 secretary of state by May 1 of the following year a report that
26 meets the requirements of section 4 unless that individual is no
27 longer a state official.

1 (2) If an individual is a candidate for state office, that
2 individual shall file with the secretary of state a report that
3 meets the requirements of section 4. If the individual files a fee,
4 affidavit of incumbency, or nominating petition for the state
5 office, the report shall be filed before the expiration of 30 days
6 after the deadline for filing the fee, affidavit of incumbency, or
7 nominating petition established by the Michigan election law, 1954
8 PA 116, MCL 168.1 to 168.992. If the individual is nominated at a
9 political party caucus or convention, the report shall be filed
10 before the expiration of 30 days after the deadline for holding the
11 caucus or convention established by the Michigan election law, 1954
12 PA 116, MCL 168.1 to 168.992. This subsection does not apply to an
13 individual who has filed a report pursuant to subsection (1) in the
14 calendar year in which the 30-day period expires.

15 Sec. 4. (1) Subject to section 5 and except as provided in
16 section 6, the report required by section 3 shall include a
17 complete statement of all of the following:

18 (a) Both of the following, as applicable:

19 (i) The source, type, and amount or value of earned income
20 received during the preceding calendar year by the individual
21 filing the report if the total earned income from that source
22 equals \$1,000.00 or more during that calendar year.

23 (ii) The source and type of earned income received during the
24 preceding calendar year by the spouse of the individual filing the
25 report if the total earned income from that source equals \$1,000.00
26 or more during that calendar year.

27 (b) The source, type, and amount or value of all other income

1 not reported under subdivision (a) that is received during the
2 preceding calendar year by the individual filing the report or a
3 member of the immediate family of that individual if the total
4 income from that source equals \$1,000.00 or more during that
5 calendar year.

6 (c) The identity and value of each asset held during the
7 preceding calendar year by the individual filing the report or a
8 member of the immediate family of that individual, including real
9 or personal property or cash, if the asset had a fair market value
10 of \$1,000.00 or more at any time the asset was held during the
11 preceding calendar year. However, if the individual filing the
12 report owns or has an interest in all or a portion of a farm or
13 business, the identity and value of each asset held during the
14 preceding year that is used in the operation of the farm or
15 business is not required to be reported under this subdivision if
16 the report includes a complete statement of the identity and value
17 of the farm or business.

18 (d) The identity and value of each liability owed during the
19 preceding calendar year by the individual filing the report or a
20 member of the immediate family of that individual if the amount of
21 the liability was \$10,000.00 or more at any time during the
22 preceding calendar year. This subdivision does not apply to a loan
23 secured by the personal residence of the individual filing the
24 report or by a personal motor vehicle, household furniture, or
25 appliance, if the loan does not exceed the purchase price of the
26 item that secures the liability.

27 (e) A brief description and value of a purchase, sale, or

1 exchange of real property, other than real property used solely as
2 a personal residence by the individual filing the report and his or
3 her immediate family, or of stocks, bonds, commodities, futures, or
4 other forms of securities during the preceding calendar year by the
5 individual filing the report or a member of the immediate family of
6 that individual that is equal to an amount of \$1,000.00 or more.
7 This subdivision does not require a description of each purchase,
8 sale, or exchange of stocks, bonds, commodities, or other forms of
9 securities if those items are part of a mutual fund and if the
10 identity and value of the mutual fund is otherwise reported under
11 this act.

12 (f) Except as otherwise provided by this subdivision, the
13 identity of all positions held by the individual filing the report
14 during the preceding calendar year as an officer, director,
15 trustee, partner, proprietor, representative, employee, or
16 consultant of a corporation, partnership, or other business
17 enterprise; of a nonprofit organization; of a labor organization;
18 or of an educational or other institution. An individual filing the
19 report who is required to have a license to practice or engage in a
20 particular occupation or profession is not required to identify a
21 position held as a consultant of a corporation unless the
22 corporation is a publicly held corporation that has shares that are
23 listed or traded over the counter or on an organized exchange or
24 has gross revenues over \$4,000,000.00. This subdivision does not
25 require the reporting of a position held in a religious, social,
26 fraternal, or political entity, or of a position solely of an
27 honorary nature.

1 (g) A description, including the dates, parties, and terms, of
2 an agreement or arrangement by or with the individual filing the
3 report with respect to future employment, a leave of absence during
4 that individual's term of office, continuation of payments by a
5 former employer, or continuation of participation in an employee
6 benefit plan maintained by a former employer.

7 (2) Instead of the information required under subsection (1),
8 an individual required to file a report under section 3 may file a
9 copy of his or her federal form 1040 and related schedules filed
10 with the internal revenue service for the immediately preceding
11 calendar year.

12 Sec. 5. (1) An amount or value reported under section 4(1)(a),
13 (b), (c), or (e) shall be reported by category as follows:

14 (a) \$1,000.00 or more but less than \$2,500.00.

15 (b) \$2,500.00 or more but less than \$5,000.00.

16 (c) \$5,000.00 or more but less than \$15,000.00.

17 (d) \$15,000.00 or more but less than \$50,000.00.

18 (e) \$50,000.00 or more but less than \$100,000.00.

19 (f) \$100,000.00 or more but less than \$250,000.00.

20 (g) \$250,000.00 or more but less than \$500,000.00.

21 (h) \$500,000.00 or more but less than \$1,000,000.00.

22 (i) \$1,000,000.00 or more.

23 (2) An amount or value reported under section 4(1)(d) shall be
24 reported by category as follows:

25 (a) \$10,000.00 or more but less than \$15,000.00.

26 (b) \$15,000.00 or more but less than \$50,000.00.

27 (c) \$50,000.00 or more but less than \$100,000.00.

1 (d) \$100,000.00 or more but less than \$250,000.00.

2 (e) \$250,000.00 or more but less than \$500,000.00.

3 (f) \$500,000.00 or more but less than \$1,000,000.00.

4 (g) \$1,000,000.00 or more.

5 Sec. 6. A report under section 4(1) may omit any of the
6 following:

7 (a) Information required to be reported under the Michigan
8 campaign finance act, 1976 PA 388, MCL 169.201 to 169.282.

9 (b) A liability owed to the individual filing the report by a
10 relative within the third degree of consanguinity or a liability
11 that the individual filing the report owes to such a related
12 individual.

13 (c) An item otherwise required to be reported under section
14 4(1)(c), (d), or (e) about which all of the following are true:

15 (i) The item represents the financial interest and
16 responsibility solely of a member of the immediate family of the
17 individual filing the report of which that individual does not have
18 actual knowledge.

19 (ii) The item is not in any way, past or present, derived from
20 the income, assets, or activities of the individual filing the
21 report.

22 (iii) The individual filing the report does not derive, or
23 expect to derive, financial benefit from the item.

24 (d) An item that concerns a spouse who is living separate and
25 apart from the individual filing the report with the intention of
26 terminating the marriage or maintaining a legal separation.

27 (e) An item that concerns income or obligations of the

1 individual filing the report arising from dissolution of his or her
2 marriage or a permanent legal separation from his or her spouse.

3 (f) Compensation, from a publicly held corporation that has
4 shares that are listed or traded over the counter or on an
5 organized exchange, paid to a business owned by the individual
6 filing the report or in which the individual filing the report has
7 an interest, if the report under section 4 includes a complete
8 statement of the identity and value of that business and the
9 individual filing the report is required to have a license as
10 described in section 4(1)(f).

11 Sec. 7. The secretary of state shall do all of the following:

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

14 (b) Receive reports required by this act.

15 (c) Within 30 days after a report is filed under this act,
16 make the report available to the public as provided in the freedom
17 of information act, 1976 PA 442, MCL 15.231 to 15.246.

18 (d) Promulgate rules and issue declaratory rulings to
19 implement this act pursuant to the administrative procedures act of
20 1969, 1969 PA 306, MCL 24.201 to 24.328.

21 (e) Conduct investigations as may be necessary to determine if
22 there is reason to believe a violation of this act occurred.

23 Sec. 8. (1) A citizen of this state may file a complaint with
24 the secretary of state alleging a violation of this act. The
25 secretary of state, upon receipt of a complaint, shall investigate
26 the allegations as provided in section 7.

27 (2) If the secretary of state, upon investigation, determines

1 that there is reason to believe a violation of this act occurred,
2 the secretary of state shall forward the results of that
3 investigation to the attorney general for enforcement of this act.

4 (3) The attorney general shall enforce this act against an
5 individual who violates this act.

6 Sec. 10. (1) An individual who knowingly falsifies or
7 knowingly fails to file a report required by this act is liable for
8 a civil fine of not more than \$5,000.00.

9 (2) A default in the payment of a civil fine ordered under
10 this act or an installment of the fine may be remedied by any means
11 authorized under the revised judicature act of 1961, 1961 PA 236,
12 MCL 600.101 to 600.9947.