

# HOUSE BILL No. 5068

November 10, 2015, Introduced by Rep. Guerra and referred to the Committee on Elections.

A bill to amend 1976 PA 388, entitled  
"Michigan campaign finance act,"  
by amending section 33 (MCL 169.233), as amended by 2013 PA 252.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 33. (1) A committee, other than an independent committee  
2 or a political committee required to file with the secretary of  
3 state, supporting or opposing a candidate shall file complete  
4 campaign statements as required by this act and the rules  
5 promulgated under this act. The campaign statements shall be filed  
6 according to the following schedule:

7           (a) A preelection campaign statement shall be filed not later  
8 than the eleventh day before an election. The closing date for a  
9 campaign statement filed under this subdivision shall be the

1 sixteenth day before the election.

2 (b) A postelection campaign statement shall be filed not later  
 3 than the thirtieth day following the election. The closing date for  
 4 a campaign statement filed under this subdivision shall be the  
 5 twentieth day following the election. A committee supporting a  
 6 candidate who loses the primary election shall file closing  
 7 campaign statements in accordance with this section. If all  
 8 liabilities of that candidate or committee are paid before the  
 9 closing date and additional contributions are not expected, the  
 10 campaign statement may be filed at any time after the election, but  
 11 not later than the thirtieth day following the election.

12 (c) ~~In a year in which there is no election for the candidate~~  
 13 ~~the committee is supporting or opposing:~~

14 ~~—— (i) Not later than July 25 with a closing date of July 20 of~~  
 15 ~~that year.~~

16 ~~—— (ii) Not later than October 25 with a closing date of October~~  
 17 ~~20 of that year.~~ **NOT LATER THAN FEBRUARY 25 OF EACH YEAR WITH A**  
 18 **CLOSING DATE OF FEBRUARY 10 OF THAT YEAR.**

19 **(D) NOT LATER THAN MARCH 25 OF EACH YEAR WITH A CLOSING DATE**  
 20 **OF MARCH 10 OF THAT YEAR.**

21 **(E) NOT LATER THAN APRIL 25 OF EACH YEAR WITH A CLOSING DATE**  
 22 **OF APRIL 10 OF THAT YEAR.**

23 **(F) NOT LATER THAN MAY 25 OF EACH YEAR WITH A CLOSING DATE OF**  
 24 **MAY 10 OF THAT YEAR.**

25 **(G) NOT LATER THAN JUNE 25 OF EACH YEAR WITH A CLOSING DATE OF**  
 26 **JUNE 10 OF THAT YEAR.**

27 **(H) NOT LATER THAN JULY 25 OF EACH YEAR WITH A CLOSING DATE OF**

1 JULY 10 OF THAT YEAR.

2 (I) NOT LATER THAN AUGUST 25 OF EACH YEAR WITH A CLOSING DATE  
3 OF AUGUST 10 OF THAT YEAR.

4 (J) NOT LATER THAN SEPTEMBER 25 OF EACH YEAR WITH A CLOSING  
5 DATE OF SEPTEMBER 10 OF THAT YEAR.

6 (K) NOT LATER THAN OCTOBER 25 OF EACH YEAR WITH A CLOSING DATE  
7 OF OCTOBER 10 OF THAT YEAR.

8 (L) NOT LATER THAN NOVEMBER 25 OF EACH YEAR WITH A CLOSING  
9 DATE OF NOVEMBER 10 OF THAT YEAR.

10 (M) NOT LATER THAN DECEMBER 25 OF EACH YEAR WITH A CLOSING  
11 DATE OF DECEMBER 10 OF THAT YEAR.

12 (2) For the purposes of subsection (1):

13 (a) A candidate committee shall file a preelection campaign  
14 statement and a postelection campaign statement for each election  
15 in which the candidate seeks nomination or election, except if an  
16 individual becomes a candidate after the closing date for the  
17 preelection campaign statement only the postelection campaign  
18 statement is required for that election.

19 (b) A committee other than a candidate committee shall file a  
20 campaign statement for each period during which expenditures are  
21 made for the purpose of influencing the nomination or election of a  
22 candidate or for the qualification, passage, or defeat of a ballot  
23 question.

24 (3) An independent committee or a political committee other  
25 than a house political party caucus committee or senate political  
26 party caucus committee required to file with the secretary of state  
27 shall file campaign statements as required by this act according to

1 the following schedule:

2 (a) Not later than February 15 of each year with a closing  
3 date of February 10 of that year.

4 (b) Not later than April 25 of each year with a closing date  
5 of April 20 of that year.

6 (c) Not later than July 25 of each year with a closing date of  
7 July 20 of that year.

8 (d) Not later than October 25 of each year with a closing date  
9 of October 20 of that year.

10 (4) A house political party caucus committee or a senate  
11 political party caucus committee required to file with the  
12 secretary of state or a political party committee for a party  
13 attempting to qualify as a new political party under section 685 of  
14 the Michigan election law, 1954 PA 116, MCL 168.685, shall file  
15 campaign statements as required by this act according to the  
16 following schedule:

17 (a) Not later than January 31 of each year with a closing date  
18 of December 31 of the immediately preceding year.

19 (b) Not later than April 25 of each year with a closing date  
20 of April 20 of that year.

21 (c) Not later than July 25 of each year with a closing date of  
22 July 20 of that year.

23 (d) Not later than October 25 of each year with a closing date  
24 of October 20 of that year.

25 (e) For the period beginning on the fourteenth day immediately  
26 preceding a primary or special primary election and ending on the  
27 day immediately following the primary or special primary election,

1 not later than 4 p.m. each business day with a closing date of the  
2 immediately preceding day, only for a contribution received or  
3 expenditure made that exceeds \$1,000.00 per day.

4 (f) For the period beginning on the fourteenth day immediately  
5 preceding a general or special election and ending on the day  
6 immediately following the general or special election, not later  
7 than 4 p.m. each business day with a closing date of the  
8 immediately preceding day, only for a contribution received or  
9 expenditure made that exceeds \$1,000.00 per day.

10 (5) Notwithstanding subsection (3) or (4) or section 51, if an  
11 independent expenditure is made within 45 days before a special  
12 election by an independent committee or a political committee  
13 required to file a campaign statement with the secretary of state,  
14 a report of the expenditure shall be filed by the committee with  
15 the secretary of state within 48 hours after the expenditure. The  
16 report shall be made on a form provided by the secretary of state  
17 and shall include the date of the independent expenditure, the  
18 amount of the expenditure, a brief description of the nature of the  
19 expenditure, and the name and address of the person to whom the  
20 expenditure was paid. The brief description of the expenditure  
21 shall include either the name of the candidate and the office  
22 sought by the candidate or the name of the ballot question and  
23 shall state whether the expenditure supports or opposes the  
24 candidate or ballot question. This subsection does not apply if the  
25 committee is required to report the independent expenditure in a  
26 campaign statement that is required to be filed before the date of  
27 the election for which the expenditure was made.

1           (6) A candidate committee or a committee other than a  
2 candidate committee that files a written statement under section  
3 24(5) or (6) is not required to file a campaign statement under  
4 subsection (1), (3), or (4) unless it received or expended an  
5 amount in excess of \$1,000.00. If the committee receives or expends  
6 an amount in excess of \$1,000.00 during a period covered by a  
7 filing, the committee is then subject to the campaign filing  
8 requirements under this act.

9           (7) A committee, candidate, treasurer, or other individual  
10 designated as responsible for the committee's record keeping,  
11 report preparation, or report filing who fails to file a statement  
12 as required by this section shall pay a late filing fee. If the  
13 committee has raised \$10,000.00 or less during the previous 2  
14 years, the late filing fee shall be \$25.00 for each business day  
15 the statement remains unfiled, but not to exceed \$500.00. If the  
16 committee has raised more than \$10,000.00 during the previous 2  
17 years, the late filing fee shall not exceed \$1,000.00, determined  
18 as follows:

19           (a) Twenty-five dollars for each business day the report  
20 remains unfiled.

21           (b) An additional \$25.00 for each business day after the first  
22 3 business days the report remains unfiled.

23           (c) An additional \$50.00 for each business day after the first  
24 10 business days the report remains unfiled.

25           (8) If a candidate, treasurer, or other individual designated  
26 as responsible for the committee's record keeping, report  
27 preparation, or report filing fails to file 2 statements required

1 by this section or section 35 and both of the statements remain  
2 unfiled for more than 30 days, that candidate, treasurer, or other  
3 designated individual is guilty of a misdemeanor punishable by a  
4 fine of not more than \$1,000.00 or imprisonment for not more than  
5 90 days, or both.

6 (9) If a candidate is found guilty of a violation of this  
7 section, the circuit court for that county, on application by the  
8 attorney general or the prosecuting attorney of that county, may  
9 prohibit that candidate from assuming the duties of a public office  
10 or from receiving compensation from public funds, or both.

11 (10) If a candidate, treasurer, or other individual designated  
12 as responsible for a committee's record keeping, report  
13 preparation, or report filing knowingly files an incomplete or  
14 inaccurate statement or report required by this section, that  
15 individual is subject to a civil fine of not more than \$1,000.00.

16 (11) If a candidate, treasurer, or other individual designated  
17 as responsible for a committee's record keeping, report  
18 preparation, or report filing knowingly omits or underreports  
19 individual contributions or individual expenditures required to be  
20 disclosed by this act, that individual is subject to a civil fine  
21 of not more than \$1,000.00 or the amount of the contributions and  
22 expenditures omitted or underreported, whichever is greater.

23 (12) If a candidate committee's account has a balance of  
24 \$20,000.00 or more and a candidate, treasurer, or other individual  
25 designated as responsible for that committee's record keeping,  
26 report preparation, or report filing fails to file campaign  
27 statements required under this act for 2 consecutive years, that

1 candidate, treasurer, or other individual is guilty of a felony  
2 punishable by imprisonment for not more than 3 years or a fine of  
3 not more than \$5,000.00, or both. Any money in a candidate  
4 committee account described in this subsection is subject to  
5 seizure by, and forfeiture to, this state as provided in this  
6 section.

7 (13) Not more than 5 business days after seizure of money  
8 under subsection (12), the secretary of state shall deliver  
9 personally or by registered mail to the last known address of the  
10 candidate from whom the seizure was made an inventory statement of  
11 the money seized. The inventory statement shall also contain notice  
12 to the effect that unless demand for hearing as provided in this  
13 section is made within 10 business days, the money is forfeited to  
14 this state. Within 10 business days after the date of service of  
15 the notice, the candidate may by registered mail, facsimile  
16 transmission, or personal service file with the secretary of state  
17 a demand for a hearing before the secretary of state or a person  
18 designated by the secretary of state for a determination as to  
19 whether the money was lawfully subject to seizure and forfeiture.  
20 The candidate is entitled to appear before the secretary of state  
21 or a person designated by the secretary of state, to be represented  
22 by counsel, and to present testimony and argument. Upon receipt of  
23 a request for hearing, the secretary of state or a person  
24 designated by the secretary of state shall hold the hearing within  
25 15 business days. The hearing is not a contested case proceeding  
26 and is not subject to the administrative procedures act of 1969,  
27 1969 PA 306, MCL 24.201 to 24.328. After the hearing, the secretary



1 of state or a person designated by the secretary of state shall  
2 render a decision in writing within 10 business days of the hearing  
3 and, by order, shall either declare the money subject to seizure  
4 and forfeiture or declare the money returnable to the candidate.  
5 If, within 10 business days after the date of service of the  
6 inventory statement, the candidate does not file with the secretary  
7 of state a demand for a hearing before the secretary of state or a  
8 person designated by the secretary of state, the money seized is  
9 forfeited to this state by operation of law. If, after a hearing  
10 before the secretary of state or a person designated by the  
11 secretary of state, the secretary of state or a person designated  
12 by the secretary of state determines that the money is lawfully  
13 subject to seizure and forfeiture and the candidate does not appeal  
14 to the circuit court of the county in which the seizure was made  
15 within the time prescribed in this section, the money seized is  
16 forfeited to this state by operation of law. If a candidate is  
17 aggrieved by the decision of the secretary of state or a person  
18 designated by the secretary of state, that candidate may appeal to  
19 the circuit court of the county where the seizure was made to  
20 obtain a judicial determination of the lawfulness of the seizure  
21 and forfeiture. The action shall be commenced within 20 days after  
22 notice of a determination by the secretary of state or a person  
23 designated by the secretary of state is sent to the candidate. The  
24 court shall hear the action and determine the issues of fact and  
25 law involved in accordance with rules of practice and procedure as  
26 in other in rem proceedings.