



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 1176 (as introduced 11-8-18)
Sponsor: Senator Mike Shirkey
Committee: Michigan Competitiveness

Date Completed: 11-30-18

CONTENT

The bill would enact the "Personal Privacy Protection Act" to do the following:

- **Prohibit a public agency from requiring an entity organized under Section 501(c) of the Internal Revenue Code to provide the agency with personal information, disclosing that information without permission, or requesting a contractor with the agency to provide it with a list of 501(c) entities to which it had provide financial or nonfinancial support.**
- **Specify that the Act would not preclude a lawful warrant for personal information, or a lawful request for discovery of personal information in litigation if the requestor satisfied certain requirements.**
- **Allow a person who alleged a violation of the Act to bring a civil action for appropriate injunctive relief, damages, or both, and prescribe damages for a violation.**
- **Prescribe a misdemeanor penalty for a person who knowingly violated the Act.**

Notwithstanding any law to the contrary, and subject to certain exclusions for authorized release, the bill would prohibit a public agency from doing any of the following:

- Requiring any entity organized under Section 501(c) of the Internal Revenue Code to provide the agency with personal information.
- If in the possession of personal information, releasing, publicizing, or otherwise disclosing personal information without the express written permission of every identified member, supporter, volunteer, or donor and the Section 501(c) entity that received their membership, support, volunteer time, or donations.
- Requesting or requiring a current or prospective contractor with the public agency to provide it with a list of entities organized under Section 501(c) to which it had provided financial or nonfinancial support.

"Public agency" would mean any State or local governmental unit, however designated, including this State; any department, agency, office, commission, board, division, other entity of the State; any political subdivision of the State, including a county, city, township, village, school district, community college district, or any other local governmental unit, agency, authority, council, board, or commission; or any State or local court, tribunal, or other judicial or quasi-judicial body. "Personal information" would mean any list, record, register, registry, roll, roster, or other compilation of data of any kind that directly or indirectly identifies a person as a member, supporter, or volunteer of, or donor of financial or nonfinancial support to, any entity organized under Section 501(c) of the Internal Revenue Code.

Personal information would be exempt from disclosure under the Freedom of Information Act. The Act would not preclude either of the following: a) a lawful warrant for personal information issued by a court of competent jurisdiction; or b) a lawful request for discovery of personal information in litigation if the requestor demonstrated a compelling need for the information by clear and convincing evidence and the requestor obtained a protective order barring disclosure of the information to any person not directly involved with the litigation. "Person" would mean an individual, partnership, corporation, association, governmental entity, or other legal entity.

A person who alleged a violation of the Act could bring a civil action for appropriate injunctive relief, damages, or both. Damages could include one of the following, as appropriate: a) at least \$2,500 to compensate for injury or loss caused by each violation of the Act; or b) for an intentional violation, a sum of money not to exceed three times the sum described in a). A court, in rendering a judgment in an action brought under the Act, could award all or a portion of the costs of litigation, including reasonable attorney fees and witness fees, to the complainant in the action if the court determined that the award was appropriate.

A person who knowingly violated the Act would be guilty of a misdemeanor punishable by up to 90 days' imprisonment or a maximum fine of \$1,000, or both.

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill could have an indeterminate negative fiscal impact on the State and local government. The bill would allow an individual to seek monetary damages from the State or local government unit that was alleged to have violated the Act. Monetary damages an individual could seek through civil action under the bill would range from \$2,500, to \$7,500 for each violation. The amount of monetary damages to be paid out as a result of the bill is indeterminate and would depend upon the number of violations and the amount of damages awarded.

To the extent that changes in the bill led to increased misdemeanor arrests and prosecutions, it could increase resource demands on law enforcement, court systems, and jails. Any increased penal fine revenue would be dedicated to public libraries.

Fiscal Analyst: Abbey Frazier

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.