

EXEMPTIONS FROM IDENTIFICATION AND DISCLAIMER REQUIREMENTS FOR ELECTION MATERIALS

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House Bill 4163 (H-2) as reported from committee

Sponsor: Rep. Ryan Berman

Committee: Elections and Ethics

Complete to 3-24-22

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4163 would amend the Michigan Campaign Finance Act to create exemptions from the general requirement that election campaign materials must include the name and address (or, in some cases, other contact information) of the person paying for them. The bill also would remove a provision that now allows the secretary of state to exempt printed matter and other items from the act's information disclosure requirements if their size makes it unreasonable to add that information.

The act now generally requires billboards, placards, posters, pamphlets, or other printed materials referencing an election, candidate, or ballot question to include the name and address of the person paying for them. The act also requires a prerecorded telephone message that expressly advocates for or against a clearly identified candidate, or for the qualification, passage, or defeat of a ballot question, to include an identification that contains the name of the person paying for the message, as well as that person's telephone number, address, or other contact information. In addition, the act requires certain disclaimers to be included under specific circumstances (for example, that the material was "Not authorized by any candidate" or was paid for "with regulated funds").

Exemption for persons required to register with the secretary of state

The bill would provide that, except for matter sent through the U.S. mail, "a person who is required to register with the secretary of state" is not required to include on advertisements, materials, objects, artifacts, or other matter the *address* of the person paying for them. (The *name* of the person would still have to be included.)

Generally speaking, committees required to file a statement of organization and campaign statements with the secretary of state under the act include candidate committees for a judicial or state elective office,¹ ballot question committees for a statewide ballot question, most political and independent committees, and political party committees.

Ballot question committees for local (i.e., not statewide) ballot questions and candidate committees for nonjudicial local elective offices² are generally required to file with the applicable county clerk and *not* with the secretary of state.

¹ State elective offices include governor, lieutenant governor, secretary of state, attorney general, state senator, state representative, State Board of Education member, University of Michigan regent, Michigan State University trustee, and Wayne State University governor.

² Local offices include county, city, township, and village offices and school and community college board members.

Exemption for prerecorded telephone messages

The bill also would no longer require a prerecorded telephone message to include the *telephone number, address, or other contact information* of the person paying for it, although inclusion of that information would not be prohibited. (The *name* of the person would still be required.)

Exemption for specified election materials

The act now requires the secretary of state to determine by rule the size and placement of an identification or disclaimer described above, and it allows those rules to exempt printed matter or other items if their size would make it unreasonable to add an identification or disclaimer.

The bill would eliminate the provision allowing the secretary of state to exempt specific items by rule. Instead, the bill would include a list of 57 specific kinds of campaign items and provide that they are exempt from the act’s identification and disclaimer requirements. Most, if not all, of these items have been exempted by declaratory rulings or interpretive statements from the Department of State,³ and most, if not all, of those exemptions were because the items in question were of a size that would make adding an identification or disclaimer unreasonable (for example, an aerial banner being pulled by a plane). To that extent, the bill would codify into statute existing rules and guidance, while apparently also removing the authority for the department to issue such rules and guidance in the future.

The bill lists the following items as exempt: aerial banners, ashtrays, badges and badge holders, balloons, bingo chips, brushes, buttons, bumper stickers that are 4 inches by 15 inches or smaller, campaign stickers that are 3 inches by 1-1/2 inches or smaller, cigarette lighters, cloth pot holders, clothespins, clothing, coasters, combs, cups, drinking glasses, earrings, emery boards, envelopes, erasers, fortune cookie messages that are 1/2 inch by 2 inches or smaller, frisbees, glasses, golf tees and golf balls, hats, horns, ice scrapers, jar lid grippers that are 5 inches or smaller, key rings, knives, labels, lapel pins or stickers, magnifying glasses, matchbooks, nail clippers and nail files, noisemakers, paper and plastic cups and plates, paperweights, pencils, pendants, pens, pinwheels, plastic tableware, pocket protectors, pot holders, refrigerator magnets, rubber wrist bracelets that are 1 inch by 8-1/4 inches or smaller, ribbons, sunglasses, shoehorns, staple removers, and yo-yos.

MCL 169.247

FISCAL IMPACT:

The bill would have no fiscal impact on the state or local units of government.

POSITIONS:

Pure Integrity for Michigan Elections indicated support for the bill. (2-8-22)

A representative of the Michigan Campaign Finance Network testified in opposition to the bill. (12-7-21)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.

³ See https://www.michigan.gov/sos/0,4670,7-127-1633_8723_66116---,00.html