

HOUSE BILL NO. 4613

April 13, 2021, Introduced by Rep. Huizenga and referred to the Committee on Elections and Ethics.

A bill to regulate political activity; to require candidates for the office of state senator to file financial reports; to prescribe the powers and duties of certain state officers and agencies; to impose fees; to prescribe penalties and civil sanctions; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "candidate for state senator financial disclosure act".

3 Sec. 2. As used in this act:

1 (a) "Beneficial interest" includes, but is not limited to, the
2 interest in a trust of a qualified trust beneficiary or a trust
3 beneficiary as those terms are defined in section 7103 of the
4 estates and protected individuals code, 1998 PA 386, MCL 700.7103.

5 (b) "Blind trust" means a qualified blind trust or qualified
6 diversified trust as those terms are defined in 5 CFR 2634.403.

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

9 (d) "Candidate for office" means a candidate for the office of
10 state senator.

11 (e) "Earned income" means salaries, tips, or other
12 compensation, and net earnings from self-employment for the taxable
13 year.

14 (f) "Immediate family of an individual", except as otherwise
15 provided in this act, means a spouse or dependent child of that
16 individual or a person claimed by that individual or that
17 individual's spouse as a dependent for federal income tax purposes.

18 (g) "Income" means money or any thing of value received, or to
19 be received as a claim on future services, whether in the form of a
20 fee, salary, expense, allowance, forbearance, forgiveness,
21 interest, dividend, royalty, rent, capital gain, or any other form
22 of recompense that is considered income under the internal revenue
23 code of 1986, 26 USC 1 to 9834.

24 Sec. 3. (1) If an individual is a candidate for office, that
25 individual shall electronically file with the secretary of state a
26 report that meets the requirements of section 4 within 30 days
27 after the later of May 15 or the date on which the individual forms
28 a candidate committee as a candidate for state office under section
29 21 of the Michigan campaign finance act, 1976 PA 388, MCL 169.221.

1 However, the individual is not required to file a report under this
2 section if, under any of the following acts, the individual files a
3 report in the current calendar year:

4 (a) State senator financial disclosure act.

5 (b) University board member financial disclosure act.

6 (c) State board of education financial disclosure act.

7 (d) State representative financial disclosure act.

8 (e) Executive branch financial disclosure act.

9 (f) Judicial branch financial disclosure act.

10 (2) If an individual required to file a report under this act
11 receives notice from the secretary of state under section 6(1)(g),
12 the individual shall, within 9 business days after receiving the
13 notice, file corrections to the errors or omissions or file the
14 report, as applicable.

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

18 (a) The full name, mailing address, and occupation of the
19 individual filing the report.

20 (b) The name of each member of the immediate family of the
21 individual filing the report who is not a dependent child and the
22 number of members of the immediate family of the individual filing
23 the report who are dependent children.

24 (c) The name, address, and principal activity of each employer
25 of the individual and of each member of the immediate family of the
26 individual filing the report during the calendar year covered by
27 the report if the individual's or member's total earned income from
28 the employer equals \$5,000.00 or more during that calendar year.

29 (d) Both of the following, as applicable:

1 (i) The source and type of earned income received during the
2 preceding calendar year by the individual filing the report if the
3 total earned income from that source equals \$5,000.00 or more
4 during that calendar year.

5 (ii) The source and type of earned income received during the
6 preceding calendar year by each member of the immediate family of
7 the individual filing the report if the total earned income from
8 that source equals \$5,000.00 or more during that calendar year.

9 (e) The source and type of all other income not reported under
10 subdivision (d) that is received during the preceding calendar year
11 by the individual filing the report or a member of the immediate
12 family of that individual if the total income from that source
13 equals \$5,000.00 or more during that calendar year.

14 (f) Excluding a primary residence, the address of each parcel
15 of real property held during the preceding calendar year by the
16 individual filing the report or a member of the immediate family of
17 that individual if the real property had a fair market value of
18 \$50,000.00 or more at any time the real property was held during
19 the preceding calendar year. An individual filing a report may
20 exclude the street number of a parcel of real property listed under
21 this subdivision.

22 (g) A description of any stocks, bonds, commodities, futures,
23 shares in mutual funds, or other forms of securities held by the
24 individual filing the report or a member of the immediate family of
25 that individual during the preceding calendar year, if the security
26 has a total aggregate fair market value of \$10,000.00 or more on
27 the date the report is filed.

28 (h) A description of any interest in any of the following
29 types of assets held by the individual filing the report or a

1 member of the immediate family of that individual, if the interest
2 in the asset has a value of \$10,000.00 or more on the date the
3 report is filed:

4 (i) A qualified or nonqualified annuity.

5 (ii) A benefit under a qualified or nonqualified plan of
6 deferred compensation.

7 (iii) An account in, or benefit payable under, any pension,
8 profit-sharing, stock bonus, or other qualified retirement plan.

9 (iv) An individual retirement account or trust.

10 (v) A benefit under a plan or arrangement that is established
11 under section 401, 403, 408, 408A, or 457 of the internal revenue
12 code of 1986, 26 USC 401, 403, 408, 408A, and 457, or a similar
13 provision of the internal revenue code of 1986, 26 USC 1 to 9834.

14 (i) The identity of all compensated positions held by the
15 individual filing the report or a member of the immediate family of
16 that individual during the preceding calendar year as an officer,
17 director, member, trustee, partner, proprietor, representative,
18 employee, or consultant of a corporation, limited liability
19 company, limited partnership, partnership, or other business
20 enterprise; of a nonprofit organization; of a labor organization;
21 or of an educational or other institution other than this state, if
22 the total compensation received from a position equals \$1,000.00 or
23 more during that calendar year. A position reported under this
24 subdivision must include the title of the position, the name of the
25 entity within which the position exists, and the principal activity
26 of the entity.

27 (j) If the individual filing the report or a member of the
28 immediate family of that individual was required during the
29 previous calendar year to register as a lobbyist or lobbyist agent

1 under section 7 of 1978 PA 472, MCL 4.417, the name, address, and
2 principal activity of all persons who gave compensation to or
3 reimbursed the individual or immediate family member for lobbying.
4 As used in this subdivision, "immediate family" includes the child
5 of an individual, whether dependent or not, parent of an
6 individual, and spouse of a child of an individual.

7 (k) A description of any interest the individual filing the
8 report or a member of the immediate family of that individual had
9 during the preceding calendar year in a legal entity that conducts
10 business in this state, if the interest has a book value of
11 \$10,000.00 or more, unless the entity has shares that are listed or
12 traded over the counter or on an organized exchange.

13 (2) Subject to subsection (4), information an individual is
14 required to report under this section includes information with
15 respect to the income from a trust or other financial arrangement
16 from which income is received by, or with respect to which a
17 beneficial interest in principal or income is held by, an
18 individual required to file a report under this section or a member
19 of the immediate family of that individual.

20 (3) An individual is not required to disclose the value of any
21 real or personal property disclosed under subsection (1).

22 (4) If an individual required to file a report under section 3
23 or an immediate family member of the individual holds a beneficial
24 interest in a blind trust, the individual is not required to
25 include the interests or assets of the blind trust in his or her
26 statement under subsection (1). However, the individual must
27 indicate in his or her report that the individual or the immediate
28 family member of the individual holds a beneficial interest in a
29 blind trust.

1 Sec. 5. An individual filing a report under section 3 may omit
2 any of the following:

3 (a) Information an individual is required to report under the
4 Michigan campaign finance act, 1976 PA 388, MCL 169.201 to 169.282.

5 (b) An item otherwise required to be reported under section
6 4(1)(f) or (g) if all of the following apply:

7 (i) The item represents the exclusive financial interest and
8 responsibility of a member of the immediate family of the
9 individual filing the report about which the individual filing the
10 report does not have actual knowledge.

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

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

16 (c) An item that concerns a spouse who is living separate and
17 apart from the individual filing the report with the intention of
18 terminating the marriage or maintaining a legal separation.

19 (d) An item that concerns income of the individual filing the
20 report or a member of the immediate family of that individual
21 arising from dissolution of the individual's or member's marriage
22 or a permanent legal separation from the individual's or member's
23 spouse.

24 (e) Compensation from a publicly held corporation that has
25 shares that are listed or traded over the counter or on an
26 organized exchange paid to a business owned by the individual
27 filing the report or in which the individual filing the report has
28 an interest, if the report under section 4 includes a complete
29 statement of the identity and value of that business.

1 (f) Benefits received under the social security act, chapter
2 531, 49 Stat 620.

3 Sec. 6. (1) The secretary of state shall do all of the
4 following:

5 (a) Make available through his or her offices appropriate
6 forms, instructions, and manuals required by this act.

7 (b) Create and operate an electronic, internet-accessible
8 system to receive all statements and reports required by this act
9 to be filed with the secretary of state.

10 (c) Prepare forms, instructions, and manuals required under
11 this act.

12 (d) Promulgate rules and issue declaratory rulings to
13 implement this act pursuant to the administrative procedures act of
14 1969, 1969 PA 306, MCL 24.201 to 24.328.

15 (e) Upon receiving a written request and the required filing,
16 waive payment of a late filing fee if the request for the waiver is
17 based on good cause and accompanied by adequate documentation. One
18 or more of the following reasons constitute good cause for a late
19 filing fee waiver:

20 (i) The incapacitating physical illness, hospitalization,
21 accident involvement, death, or incapacitation for medical reasons
22 of an individual required to file a report, an individual whose
23 participation is essential to the preparation of the report, or a
24 member of the immediate family of 1 of these individuals.

25 (ii) Other unique, unintentional factors beyond the
26 individual's control that are not the result of a negligent act or
27 nonaction so that a reasonably prudent person would excuse the
28 filing on a temporary basis. These factors include the loss or
29 unavailability of records because of a fire, flood, theft, or

1 similar reason and difficulties related to the transmission of the
2 filing to the secretary of state, such as exceptionally bad
3 weather.

4 (f) As soon as practicable, but not later than 5 business days
5 after a report required to be filed under this act is received,
6 make the report or all of the contents of the report available
7 without charge to the public on the internet at a single website.

8 (g) Within 9 business days after the deadline for filing a
9 report under this act, notify, by registered mail, an individual of
10 any error or omission in the individual's report or that the
11 individual failed to file the required report.

12 (2) The secretary of state shall issue a declaratory ruling
13 under this section only if the person requesting the ruling has
14 provided a reasonably complete statement of facts necessary for the
15 ruling or if the person requesting the ruling has, with the
16 permission of the secretary of state, supplied supplemental facts
17 necessary for the ruling. Within 2 days after receiving a request
18 for a declaratory ruling, the secretary of state shall make the
19 request available in the manner provided for under subsection
20 (1)(f). An interested person may submit written comments regarding
21 the request to the secretary of state within 10 business days after
22 the date the request is made available to the public. Within 45
23 business days after receiving a declaratory ruling request, the
24 secretary of state shall make a proposed response available in the
25 manner provided for under subsection (1)(f). An interested person
26 may submit written comments regarding the proposed response to the
27 secretary of state within 5 business days after the date the
28 proposal is made available to the public. Except as otherwise
29 provided in this section, the secretary of state shall issue a

1 declaratory ruling within 60 business days after receiving a
2 request for a declaratory ruling. If the secretary of state refuses
3 to issue a declaratory ruling, the secretary of state shall notify
4 the person making the request of the reasons for the refusal and
5 issue an interpretative statement providing an informational
6 response to the question presented within the 60-day period. A
7 declaratory ruling or interpretative statement issued under this
8 section must not state a general rule of law, other than that which
9 is stated in this act, until the general rule of law is promulgated
10 by the secretary of state as a rule pursuant to the administrative
11 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, or under
12 judicial order.

13 (3) Under extenuating circumstances, the secretary of state
14 may issue a notice extending, for not more than 30 business days,
15 the period during which the secretary of state shall respond to a
16 request for a declaratory ruling. The secretary of state shall not
17 issue more than 1 notice of extension for a particular request. A
18 person requesting a declaratory ruling may waive, in writing, the
19 time limitations provided by this section.

20 (4) The secretary of state shall make available to the public
21 an annual summary of the declaratory rulings and interpretative
22 statements issued by the secretary of state under this section.

23 (5) A person may file with the secretary of state a complaint
24 that alleges a violation of this act. Within 5 business days after
25 a complaint that meets the requirements of subsection (6) is filed,
26 the secretary of state shall mail notice to the person against whom
27 the complaint is filed. The notice must include a copy of the
28 complaint. Within 15 business days after the notice is mailed, the
29 person against whom the complaint was filed may submit a response

1 to the secretary of state. The secretary of state may extend the
2 period for submitting a response an additional 15 business days for
3 good cause. The secretary of state shall mail a copy of a response
4 received to the complainant. Within 10 business days after the
5 response is mailed, the complainant may submit a rebuttal statement
6 to the secretary of state. The secretary of state may extend the
7 period for submitting a rebuttal statement an additional 10
8 business days for good cause. The secretary of state shall provide
9 a copy of the rebuttal statement to the person against whom the
10 complaint was filed.

11 (6) A complaint filed under subsection (5) must satisfy all of
12 the following requirements:

13 (a) Be signed by the complainant.

14 (b) State the name, address, and telephone number of the
15 complainant.

16 (c) Include the complainant's certification that, to the best
17 of the complainant's knowledge, information, and belief, formed
18 after a reasonable inquiry under the circumstances, each factual
19 contention of the complaint is supported by evidence. However, if,
20 after a reasonable inquiry under the circumstances, the complainant
21 is unable to certify that certain factual contentions are supported
22 by evidence, the complainant may certify that, to the best of his
23 or her knowledge, information, or belief, there are grounds to
24 conclude that those specifically identified factual contentions are
25 likely to be supported by evidence after a reasonable opportunity
26 for further inquiry.

27 (7) A person shall not file a complaint with a false
28 certificate under subsection (6) (c). A person may file a complaint
29 under subsection (5) alleging that another person has filed a

1 complaint with a false certificate under subsection (6)(c).

2 (8) The secretary of state shall investigate allegations
3 brought under this act pursuant to the rules promulgated under this
4 act. If an allegation involves the secretary of state, or a member
5 of the immediate family of the secretary of state, the secretary of
6 state shall refer the matter to the attorney general to determine
7 whether a violation of this act occurred.

8 (9) No later than 45 business days after receiving a rebuttal
9 statement submitted under subsection (5) or, if no response or
10 rebuttal is received under subsection (5), 45 business days after
11 receiving a complaint under subsection (5), the secretary of state
12 shall post on the secretary of state's website whether there may be
13 reason to believe that a violation of this act occurred. If the
14 secretary of state determines whether there may be reason to
15 believe that a violation of this act occurred or determines to
16 terminate its proceedings, the secretary of state shall, within 30
17 days after that determination, post on the secretary of state's
18 website any complaint, response, or rebuttal statement received
19 under subsection (5) regarding that violation or alleged violation
20 and any correspondence that is dispositive of that violation or
21 alleged violation between the secretary of state and the
22 complainant or the person against whom the complaint was filed. If
23 the secretary of state determines that there may be reason to
24 believe that a violation of this act occurred, the secretary of
25 state shall endeavor to correct the violation or prevent a further
26 violation by using informal methods such as a conference,
27 conciliation, or persuasion, and may enter into a conciliation
28 agreement with the person involved. Unless violated, a conciliation
29 agreement is a complete bar to any further civil action with

1 respect to matters covered in the conciliation agreement. The
2 secretary of state shall, within 30 days after a conciliation
3 agreement is signed, post that agreement on the secretary of
4 state's website. If, after 90 business days, the secretary of state
5 is unable to correct or prevent further violation by these informal
6 methods, the secretary of state shall commence a hearing as
7 provided in subsection (10) for enforcement of this act.

8 (10) The secretary of state may commence a hearing to
9 determine whether a violation of this act occurred. The hearing
10 must be conducted pursuant to chapter 4 of the administrative
11 procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.288.

12 (11) A final decision or order issued by the secretary of
13 state under this act is subject to judicial review as provided by
14 chapter 6 of the administrative procedures act of 1969, 1969 PA
15 306, MCL 24.301 to 24.306. The secretary of state shall deposit a
16 civil fine imposed under this act in the general fund. The
17 secretary of state may bring an action in circuit court to recover
18 the amount of a civil fine.

19 (12) The secretary of state shall review a report or statement
20 filed under this act and may investigate an apparent violation of
21 this act pursuant to the rules promulgated under this act. If the
22 secretary of state determines that there may be reason to believe a
23 violation of this act occurred and the procedures prescribed in
24 subsection (9) have been complied with, the secretary of state may
25 commence a hearing under subsection (10) to determine whether a
26 violation of this act occurred.

27 (13) In addition to any other sanction provided for by this
28 act, the secretary of state may require a person who violates
29 subsection (7) to do either or both of the following:

1 (a) Pay to the secretary of state some or all of the expenses
2 incurred by the secretary of state as a direct result of the
3 violation.

4 (b) Pay to the person against whom the complaint was filed
5 some or all of the expenses, including, but not limited to,
6 reasonable attorney fees incurred by that person in proceedings
7 under this act as a direct result of the violation.

8 (14) There is no private right of action, either in law or in
9 equity, under this act. The remedies provided in this act are the
10 exclusive means by which this act may be enforced and by which any
11 harm resulting from a violation of this act may be redressed.

12 Sec. 7. (1) The secretary of state shall provide a copy of a
13 report, or part of a report, required to be filed under this act at
14 a reasonable charge.

15 (2) A report that is made available to the public under this
16 act must not be used for any commercial purpose.

17 (3) The secretary of state shall preserve a report filed under
18 this act for 15 years after the date the report is filed. If the
19 secretary of state or attorney general determines under section 6
20 that a violation of this act occurred, the secretary of state shall
21 preserve all complaints, orders, decisions, or other documents
22 related to that violation for 15 years after the date of the
23 determination or the date the violation is corrected, whichever is
24 later. Reports filed under this act may be reproduced pursuant to
25 the records reproduction act, 1992 PA 116, MCL 24.401 to 24.406.
26 After the required preservation period, the reports, or the
27 reproductions of the reports, may be disposed of in the manner
28 prescribed in the management and budget act, 1984 PA 431, MCL
29 18.1101 to 18.1594, and section 11 of the Michigan history center

1 act, 2016 PA 470, MCL 399.811.

2 (4) The secretary of state shall not collect a charge for the
3 filing of a report under this act, except a late filing fee
4 required by this act.

5 (5) The secretary of state shall determine whether a statement
6 or report filed under this act complies, on its face, with the
7 requirements of this act and the rules promulgated under this act.
8 The secretary of state shall determine whether a statement or
9 report that is required to be filed under this act is in fact
10 filed.

11 (6) A report required to be filed under this act must be filed
12 not later than 5 p.m. of the day it is required to be filed.

13 Sec. 8. (1) An individual who fails to file a report as
14 required under this act shall pay a late filing fee determined as
15 follows:

16 (a) Twenty-five dollars for each of the first 10 business days
17 that the report remains unfiled.

18 (b) Fifty dollars for each business day after the first 10
19 business days that the report remains unfiled.

20 (c) In addition to the late filing fees imposed under
21 subdivisions (a) and (b), \$5,000.00 if the report remains unfiled
22 for more than 105 business days.

23 (2) If an individual required to file a report under this act
24 knowingly files an incomplete or inaccurate report, the individual
25 shall be ordered to pay a civil fine of not more than \$10,000.00.

26 (3) A late filing fee collected under this act must be
27 deposited into the state official financial disclosure fund created
28 in section 9 of the state representative financial disclosure act.
29 A late filing fee assessed under this act that remains unpaid for

1 more than 180 days must be referred to the department of treasury
2 for collection.

3 Enacting section 1. This act takes effect May 1, 2022.