

# HOUSE BILL NO. 5614

December 08, 2021, Introduced by Rep. VanWoerkom and referred to the Committee on Elections and Ethics.

A bill to amend 1976 PA 388, entitled "Michigan campaign finance act," by amending sections 3, 11, 12, 21, and 24 (MCL 169.203, 169.211, 169.212, 169.221, and 169.224), sections 3 and 11 as amended by 2017 PA 119 and sections 12, 21, and 24 as amended by 2019 PA 93, and by adding section 21b.

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

1           Sec. 3. (1) "Candidate" means an individual who meets 1 or  
2 more of the following criteria:

3           (a) Files a fee, an affidavit of incumbency, or a nominating  
4 petition for an elective office.

5           (b) Is nominated as a candidate for elective office by a  
6 political party caucus or convention and whose nomination is  
7 certified to the appropriate filing official.

8           (c) Receives a contribution, makes an expenditure, or gives  
9 consent for another person to receive a contribution or make an  
10 expenditure with a view to bringing about the individual's  
11 nomination or election to an elective office, whether or not the  
12 specific elective office for which the individual will seek  
13 nomination or election is known at the time the contribution is  
14 received or the expenditure is made.

15           (d) Is ~~an officeholder who is the subject of a recall~~  
16 ~~vote.~~ **candidate.**

17           (e) Holds an elective office, unless the officeholder is  
18 constitutionally or legally barred from seeking reelection or fails  
19 to file for reelection to that office by the applicable filing  
20 deadline. An individual described in this subdivision is considered  
21 to be a candidate for reelection to that same office for the  
22 purposes of this act only.

23           For purposes of sections 61 to 71, "candidate" only means, in  
24 a primary election, a candidate for the office of governor and, in  
25 a general election, a candidate for the office of governor or  
26 lieutenant governor. However, the candidates for the office of  
27 governor and lieutenant governor of the same political party in a  
28 general election are considered as 1 candidate.

29           (2) "Candidate committee" means the committee designated in a

1 candidate's filed statement of organization as that individual's  
2 candidate committee. A candidate committee must be under the  
3 control and direction of the candidate named in the same statement  
4 of organization. Notwithstanding subsection (4), an individual,  
5 **except for a recall candidate**, shall form a candidate committee  
6 under section 21 if the individual becomes a candidate under  
7 subsection (1).

8 (3) "Closing date" means the date through which a campaign  
9 statement is required to be complete.

10 (4) "Committee" means a person that receives contributions or  
11 makes expenditures for the purpose of influencing or attempting to  
12 influence the action of the voters for or against the nomination or  
13 election of a candidate, the qualification, passage, or defeat of a  
14 ballot question, or the qualification of a new political party, if  
15 contributions received total \$500.00 or more in a calendar year or  
16 expenditures made total \$500.00 or more in a calendar year. Except  
17 as restricted or prohibited by this act or other state or federal  
18 law, a committee may also make other lawful disbursements. An  
19 individual, other than a candidate, does not constitute a  
20 committee. A person, other than a committee registered under this  
21 act, making an expenditure to a ballot question committee or an  
22 independent expenditure committee, ~~shall is~~ not, for that reason,  
23 ~~be~~ considered a committee or ~~be~~ required to file a report for the  
24 purposes of this act unless the person solicits or receives  
25 contributions for the purpose of making an expenditure to that  
26 ballot question committee or independent expenditure committee.

27 Sec. 11. (1) "Payroll deduction plan" means any system in  
28 which an employer deducts any amount of money from the wages,  
29 earnings, or compensation of an employee.

1           (2) "Person" means a business, individual, proprietorship,  
2 limited liability company, firm, partnership, joint venture,  
3 syndicate, business trust, labor organization, company,  
4 corporation, association, committee, or any other organization or  
5 group of persons acting jointly.

6           (3) "Political committee" means a committee that is not a  
7 candidate committee, **recall committee**, political party committee,  
8 house or senate political party caucus committee, independent  
9 committee, independent expenditure committee, or ballot question  
10 committee.

11           (4) "Political merchandise" means goods such as bumper  
12 stickers, pins, hats, beverages, literature, or other items sold by  
13 a person at a fund raiser or to the general public for publicity or  
14 for the purpose of raising funds to be used in supporting or  
15 opposing a candidate for nomination for or election to an elective  
16 office, in supporting or opposing the qualification, passage, or  
17 defeat of a ballot question, or in supporting or opposing the  
18 qualification of a new political party.

19           (5) "Political party" means a political party that has a right  
20 under law to have the names of its candidates listed on the ballot  
21 in a general election.

22           (6) "Political party committee" means a state central,  
23 district, or county committee of a political party or a party  
24 attempting to qualify as a new political party under section 685 of  
25 the Michigan election law, 1954 PA 116, MCL 168.685, that is a  
26 committee. Each state central committee shall designate the  
27 official party county and district committees. There must not be  
28 more than 1 officially designated political party committee per  
29 county and per congressional district.

1 (7) "Public body" means 1 or more of the following:

2 (a) A state agency, department, division, bureau, board,  
3 commission, council, authority, or other body in the executive  
4 branch of state government.

5 (b) The legislature or an agency, board, commission, or  
6 council in the legislative branch of state government.

7 (c) A county, city, township, village, intercounty, intercity,  
8 or regional governing body; a council, school district, special  
9 district, or municipal corporation; or a board, department,  
10 commission, or council or an agency of a board, department,  
11 commission, or council.

12 (d) Any other body that is created by state or local authority  
13 or is primarily funded by or through state or local authority, if  
14 the body exercises governmental or proprietary authority or  
15 performs a governmental or proprietary function.

16 Sec. 12. (1) "Qualifying contribution" means a contribution of  
17 money made by a written instrument, credit card, or debit card by  
18 an individual to the candidate committee of a candidate for the  
19 office of governor that is \$100.00 or less and made after April 1  
20 of the year preceding a year in which a governor is to be elected.  
21 Not more than \$100.00 of an individual's total aggregate  
22 contribution may be used as a qualifying contribution in a calendar  
23 year. Qualifying contribution does not include a subscription,  
24 loan, advance, deposit of money, in-kind contribution or  
25 expenditure, or anything else of value except as prescribed in this  
26 act. Qualifying contribution does not include a contribution by an  
27 individual who resides outside of this state. For purposes of this  
28 subsection, an individual is considered to reside in this state if  
29 he or she is considered a resident of this state under the Michigan

1 election law, 1954 PA 116, MCL 168.1 to 168.992.

2 (2) "Recall candidate" means an officeholder for whom a recall  
3 petition has been determined to be sufficient under section 963 of  
4 the Michigan election law, 1954 PA 116, MCL 168.963.

5 (3) "Recall committee" means the committee designated in a  
6 recall candidate's filed statement of organization as that  
7 individual's recall committee.

8 (4) ~~(2)~~—"Senate political party caucus committee" means an  
9 independent committee established by a political party caucus of  
10 the state senate under section 24a.

11 (5) ~~(3)~~—"State elective office" means a statewide elective  
12 office or the office of state legislator.

13 (6) ~~(4)~~—"Statewide elective office" means the office of  
14 governor, lieutenant governor, secretary of state, or attorney  
15 general, justice of the supreme court, member of the state board of  
16 education, regent of the University of Michigan, member of the  
17 board of trustees of Michigan State University, or member of the  
18 board of governors of Wayne State University.

19 Sec. 21. (1) A candidate, **except for a recall candidate**,  
20 within 10 days after becoming a candidate, shall form a candidate  
21 committee. An individual who is a candidate for more than 1 office  
22 shall form a candidate committee for each office for which the  
23 individual is a candidate, if at least 1 of the offices is a state  
24 elective office. A candidate shall not form more than 1 candidate  
25 committee for each office for which the individual is a candidate.

26 (2) A candidate committee must have a treasurer who is a  
27 qualified elector of this state. A candidate may appoint himself or  
28 herself as the candidate committee treasurer.

29 (3) A committee other than a candidate committee **or a recall**

1 **committee** must have a treasurer who is a qualified elector of this  
2 state if the committee conducts business through an office or other  
3 facility located in this state.

4 (4) If a committee is not required to have as its treasurer an  
5 individual who is a qualified elector of this state, the committee  
6 may have as its treasurer an individual who is a resident of  
7 another state. A committee with a nonresident treasurer shall file,  
8 with its statement of organization, an irrevocable written  
9 stipulation, signed by the treasurer, agreeing that legal process  
10 affecting the committee, served on the secretary of state or an  
11 agent designated by the secretary of state, has the same effect as  
12 if personally served on the committee. This appointment remains in  
13 force as long as any liability of the committee remains outstanding  
14 within this state.

15 (5) If the secretary of state or designated agent of the  
16 secretary of state is served with legal process under subsection  
17 (4), the secretary of state shall promptly notify the committee's  
18 treasurer by certified mail at the last known address of the  
19 committee shown on the committee's statement of organization.

20 (6) Except as provided by law, a candidate committee or a  
21 committee described in subsection (3) shall have 1 account in a  
22 financial institution in this state as an official depository to  
23 deposit all contributions received by the committee in the form of  
24 or which are converted to money, checks, or other negotiable  
25 instruments and to make all expenditures. The committee shall  
26 designate that financial institution as its official depository.  
27 The establishment of an account in a financial institution is not  
28 required until the committee receives a contribution or makes an  
29 expenditure. Candidate committees shall only use secondary

1 depositories to deposit contributions and promptly transfer the  
2 deposits to the committee's official depository, or to deposit the  
3 proceeds of a joint fund-raiser under section 44(4) and transfer  
4 each committee's share of any receipts from the joint fund-raiser.  
5 A committee described in subsection (3) shall only use secondary  
6 depositories for any of the following:

7 (a) To deposit contributions and promptly transfer the  
8 deposits to the committee's official depository.

9 (b) To deposit the proceeds of a joint fund-raiser under  
10 section 44(4) and transfer each committee's share of any receipts  
11 from the joint fund-raiser.

12 (c) To deposit, divide, and transfer contributions that are  
13 aggregated with dues or other payments.

14 (7) Except as provided by law, a committee described in  
15 subsection (4) shall have 1 account in a financial institution as  
16 its official depository to deposit all contributions received by  
17 the committee in the form of or which are converted to money,  
18 checks, or other negotiable instruments and to make all  
19 expenditures. The committee shall designate that financial  
20 institution as its official depository. The establishment of an  
21 account in a financial institution is not required until the  
22 committee receives a contribution or makes an expenditure. A  
23 committee described in subsection (4) shall only use secondary  
24 depositories for any of the following:

25 (a) To deposit contributions and promptly transfer the  
26 deposits to the committee's official depository.

27 (b) To deposit the proceeds of a joint fund-raiser under  
28 section 44(4) and transfer each committee's share of any receipts  
29 from the joint fund-raiser.



1 (c) To deposit, divide, and transfer contributions that are  
2 aggregated with dues or other payments.

3 (8) A committee shall not accept a contribution or make an  
4 expenditure if that committee does not have a treasurer. When the  
5 office of treasurer in a candidate committee is vacant, the  
6 candidate is the treasurer until the candidate appoints a new  
7 treasurer.

8 (9) A committee shall not make an expenditure without the  
9 authorization of the treasurer or the treasurer's designee. The  
10 contributions received or expenditures made by a candidate or an  
11 agent of a candidate are considered received or made by the  
12 candidate committee.

13 (10) Contributions received by an individual acting in behalf  
14 of a committee must be reported promptly to the committee's  
15 treasurer not later than 5 days before the closing date of any  
16 campaign statement required to be filed by the committee, and must  
17 be reported to the committee treasurer immediately if the  
18 contribution is received less than 5 days before the closing date.

19 (11) A contribution is considered received by a committee when  
20 it is received by the committee treasurer or a designated agent of  
21 the committee treasurer although the contribution may not be  
22 deposited in the official depository by the reporting deadline.

23 (12) Contributions received by a committee must not be  
24 commingled with other funds of an agent of the committee or of any  
25 other person. Contributions are not considered to be commingled if  
26 that contribution is either of the following:

27 (a) A contribution received by a person for transmission to a  
28 separate segregated fund as described in section 55(7).

29 (b) A contribution made by 1 or more persons through a person

1 if all of the following are met:

2 (i) The individual contribution or aggregated contribution is  
3 accompanied by or logically associated with all information  
4 required under section 26 for each individual contributor.

5 (ii) The person making the contribution is the original source  
6 of the contribution.

7 (iii) The contribution is not obtained through use of coercion  
8 or physical force, as a condition of employment or membership, or  
9 by using or threatening to use job discrimination or financial  
10 reprisals.

11 (iv) Only the person making the contribution exercises any  
12 control over the making of, or the amount or recipient of, the  
13 contribution.

14 (v) The contribution is not otherwise prohibited by this act.

15 (13) A person that violates this section is subject to a civil  
16 fine of not more than \$1,000.00.

17 **Sec. 21b. (1) A recall candidate, within 10 days after**  
18 **becoming a recall candidate, shall form a recall committee. A**  
19 **recall candidate shall not form more than 1 recall committee.**

20 (2) A recall committee must have a treasurer who is a  
21 qualified elector of this state. A candidate may appoint himself or  
22 herself as the recall committee treasurer.

23 (3) Except as provided by law, a recall committee shall have 1  
24 account in a financial institution in this state as an official  
25 depository to deposit all contributions received by the recall  
26 committee in the form of or that are converted to money, checks, or  
27 other negotiable instruments and to make all expenditures. The  
28 recall committee shall designate that financial institution as its  
29 official depository. The establishment of an account in a financial

1 institution is not required until the recall committee receives a  
2 contribution or makes an expenditure.

3 (4) A recall committee shall not accept a contribution or make  
4 an expenditure if that recall committee does not have a treasurer.  
5 When the office of treasurer in a recall committee is vacant, the  
6 recall candidate is the treasurer until the recall candidate  
7 appoints a new treasurer.

8 (5) A recall committee shall not make an expenditure without  
9 the authorization of the treasurer or the treasurer's designee. The  
10 contributions received or expenditures made by a recall candidate  
11 or an agent of a recall candidate are considered received or made  
12 by the recall committee.

13 (6) Contributions received by an individual acting in behalf  
14 of a recall committee must be reported promptly to the recall  
15 committee's treasurer not later than 5 days before the closing date  
16 of any campaign statement required to be filed by the recall  
17 committee, and must be reported to the recall committee treasurer  
18 immediately if the contribution is received less than 5 days before  
19 the closing date.

20 (7) A contribution is considered received by a recall  
21 committee when it is received by the recall committee treasurer or  
22 a designated agent of the recall committee treasurer although the  
23 contribution may not be deposited in the official depository by the  
24 reporting deadline.

25 (8) Contributions received by a recall committee must not be  
26 commingled with other funds of an agent of the recall committee or  
27 of any other person.

28 (9) Upon the results of the recall election being certified,  
29 unexpended funds in the recall committee must be returned to

1 donors.

2 (10) A person that violates this section is subject to a civil  
3 fine of not more than \$1,000.00.

4 Sec. 24. (1) A committee shall file a statement of  
5 organization with the filing officials designated in section 36 to  
6 receive the committee's campaign statements. A committee shall file  
7 a statement of organization within 10 days after the committee is  
8 formed. A filing official shall maintain a statement of  
9 organization filed by a committee until 5 years after the official  
10 date of the committee's dissolution. A person who fails to file a  
11 statement of organization required by this subsection shall pay a  
12 late filing fee of \$10.00 for each business day the statement  
13 remains not filed in violation of this subsection. The late filing  
14 fee must not exceed \$300.00. A person who violates this subsection  
15 by failing to file for more than 30 days after a statement of  
16 organization is required to be filed is guilty of a misdemeanor  
17 punishable by a fine of not more than \$1,000.00.

18 (2) The statement of organization required to be filed under  
19 subsection (1) must include the following information:

20 (a) The name, street address, and if available, the ~~electronic~~  
21 ~~mail-email~~ address and telephone number of the committee, and the  
22 ~~electronic mail-email~~ address of the candidate. If a committee is a  
23 candidate committee **or recall committee**, the committee name must  
24 include the first and last name of the candidate. A committee  
25 address may be the home address of the candidate or treasurer of  
26 the committee.

27 (b) The name, street address, and if available, the ~~electronic~~  
28 ~~mail-email~~ address and telephone number of the treasurer or other  
29 individual designated as responsible for the committee's record

1 keeping, report preparation, or report filing.

2 (c) The name and address of the financial institution in which  
3 the official committee depository is or is intended to be located,  
4 and the name and address of each financial institution in which a  
5 secondary depository is or is intended to be located.

6 (d) The full name of the office being sought by, including  
7 district number or jurisdiction, and the county residence of each  
8 candidate supported or opposed by the committee.

9 (e) A brief statement identifying the substance of each ballot  
10 question supported or opposed by the committee. If the ballot  
11 question supported or opposed by the committee is a local ballot  
12 question, the committee shall identify the county in which the  
13 greatest number of registered voters eligible to vote on the ballot  
14 question reside.

15 (f) Identification of the committee as a candidate committee,  
16 **recall committee**, political party committee, independent committee,  
17 independent expenditure committee, political committee, or ballot  
18 question committee if it is identifiable as such a committee.

19 (3) An independent committee or political committee shall  
20 include in the name of the committee the name of the person or  
21 persons that sponsor the committee, if any, or with whom the  
22 committee is affiliated. A person, other than an individual or a  
23 committee, sponsors or is affiliated with an independent committee  
24 or political committee if that person establishes, directs,  
25 controls, or financially supports the administration of the  
26 committee. For the purposes of this subsection, a person does not  
27 financially support the administration of a committee by merely  
28 making a contribution to the committee.

29 (4) If any of the information required in a statement of

1 organization is changed, the committee shall file an amendment when  
2 the next campaign statement is required to be filed.

3 (5) When filing a statement of organization, a committee,  
4 other than an independent committee, a political committee, or a  
5 political party committee, may indicate in a written statement  
6 signed by the treasurer of the committee that the committee does  
7 not expect for each election to receive an amount in excess of  
8 \$1,000.00 or expend an amount in excess of \$1,000.00. The treasurer  
9 of a committee of an incumbent judge or supreme court justice is  
10 considered to have made the statement required under this  
11 subsection following appointment or election of that judge or  
12 justice and is not required to file a written statement under this  
13 subsection indicating that the committee does not expect for each  
14 election to receive or expend an amount in excess of \$1,000.00.

15 (6) When filing a statement of organization, an independent  
16 committee, an independent expenditure committee, a political  
17 committee, or a political party committee may indicate in a written  
18 statement signed by the treasurer of the committee that the  
19 committee does not expect in a calendar year to receive or expend  
20 an amount in excess of \$1,000.00.

21 (7) Upon the dissolution of a committee, the committee shall  
22 file a statement indicating dissolution with the filing officials  
23 with whom the committee's statement of organization was filed.  
24 Dissolution of a committee must be accomplished pursuant to rules  
25 promulgated by the secretary of state under the administrative  
26 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

27 (8) A candidate committee that files a written statement under  
28 subsection (5) or that is considered to have made a statement under  
29 subsection (5) is not required to file a dissolution statement

1 under subsection (7) if the committee failed to receive or expend  
2 an amount in excess of \$1,000.00 and 1 of the following applies:

3 (a) The candidate was defeated in an election and has no  
4 outstanding campaign debts or assets.

5 (b) The candidate vacates an elective office and has no  
6 outstanding campaign debts or assets.

7 (9) A political committee organized for the purpose of making  
8 independent expenditures formed before December 31, 2019 is  
9 considered an independent expenditure committee. The secretary of  
10 state may amend the statement of organization for any committee  
11 affected by this subsection.

12 Enacting section 1. This amendatory act is retroactive and  
13 takes effect January 1, 2021.