



HOUSE BILL No. 4738

April 25, 1995, Introduced by Reps. Baade, Harder, Voorhees, Dobronski, Martinez, DeMars, Wetters, Porreca, Pitoniak and Freeman and referred to the Committee on House Oversight and Ethics.

A bill to amend sections 15, 16, and 17 of Act No. 388 of the Public Acts of 1976, entitled as amended "Michigan campaign finance act," sections 15 and 17 as amended by Act No. 95 of the Public Acts of 1989 and section 16 as amended by Act No. 188 of the Public Acts of 1992, being sections 169.215, 169.216, and 169.217 of the Michigan Compiled Laws; and to add section 18.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 15, 16, and 17 of Act No. 388 of the
2 Public Acts of 1976, sections 15 and 17 as amended by Act No. 95
3 of the Public Acts of 1989 and section 16 as amended by Act
4 No. 188 of the Public Acts of 1992, being sections 169.215,
5 169.216, and 169.217 of the Michigan Compiled Laws, are amended
6 and section 18 is added to read as follows:

1 Sec. 15. (1) The secretary of state shall do all of the
2 following:

3 (a) Make available through his or her offices, and furnish
4 to county clerks, appropriate forms, instructions, and manuals
5 required by this act.

6 (b) Develop a filing, coding, and cross-indexing system for
7 the filing of required reports and statements consistent with the
8 purposes of this act, and supervise the implementation of the
9 filing systems by the clerks of the counties.

10 (c) Receive all statements and reports required by this act
11 to be filed with the secretary of state.

12 (d) Prepare forms, instructions, and manuals required under
13 this act.

14 (e) Promulgate rules and issue declaratory rulings to imple-
15 ment this act pursuant to the administrative procedures act of
16 1969, Act No. 306 of the Public Acts of 1969, as amended, being
17 sections 24.201 to 24.328 of the Michigan Compiled Laws.

18 (f) Upon receipt of a written request and the required
19 filing, waive payment of a late filing fee if the request for the
20 waiver is based on good cause and accompanied by adequate
21 documentation. ~~Any~~ ONE OR MORE of the following reasons
22 ~~shall~~ constitute good cause for a late filing fee waiver:

23 (i) The incapacitating physical illness, hospitalization,
24 accident involvement, death, or incapacitation for medical rea-
25 sons of a person required to file, a person whose participation
26 is essential to the preparation of the statement or report, or a
27 member of the immediate family of these persons.

1 (ii) Other unique, unintentional factors beyond the filer's
2 control not stemming from a negligent act or nonaction so that a
3 reasonably prudent person would excuse the filing on a temporary
4 basis. These factors include the loss or unavailability of
5 records due to a fire, flood, theft, or similar reason and diffi-
6 culties related to the transmission of the filing to the filing
7 official, such as exceptionally bad weather or strikes involving
8 transportation systems.

9 (2) A declaratory ruling shall be issued under this section
10 only if the person requesting the ruling has provided a reason-
11 ably complete statement of facts necessary for the ruling or if
12 the secretary of state has permitted the person requesting the
13 ruling an opportunity to supply supplemental facts necessary for
14 the ruling. A request for a declaratory ruling that is submitted
15 to the secretary of state shall be made available for public
16 inspection within 48 hours after its receipt. An interested
17 person may submit written comments regarding the request to the
18 secretary of state within 10 business days after the date the
19 request is made available to the public. Within 45 business days
20 after receiving a declaratory ruling request, the secretary of
21 state shall make a proposed response available to the public. An
22 interested person may submit written comments regarding the pro-
23 posed response to the secretary of state within 5 business days
24 after the date the proposal is made available to the public.
25 Except as otherwise provided in this section, the secretary of
26 state shall issue a declaratory ruling within 60 business days
27 after a request for a declaratory ruling is received. If the

1 secretary of state refuses to issue a declaratory ruling, the
2 secretary of state shall notify the person making the request of
3 the reasons for the refusal. The secretary of state may issue an
4 interpretative statement providing an informational response to
5 the question presented. A declaratory ruling or interpretative
6 statement issued under this section shall not state a general
7 rule of law, other than that which is stated in this act, until
8 the general rule of law is promulgated by the secretary of state
9 as a rule pursuant to ~~the administrative procedures act of~~
10 ~~1969,~~ Act No. 306 of the Public Acts of 1969, ~~being sections~~
11 ~~24.201 to 24.328 of the Michigan Compiled Laws,~~ or pursuant to
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
17 not issue more than 1 notice of extension for a particular
18 request. A person requesting a declaratory ruling may waive, in
19 writing, the time limitations provided by this section.

20 (4) An annual summary of the declaratory rulings and inter-
21 pretative statements issued by the secretary of state shall be
22 made available to the public.

23 (5) A person may file a complaint with the secretary of
24 state alleging a violation of this act. Upon receipt of a com-
25 plaint, the secretary of state shall investigate the allegations
26 pursuant to the rules promulgated under this act. If the
27 secretary of state determines that there may be reason to believe

1 that a violation of this act has occurred, the secretary of state
2 shall endeavor to correct the violation or prevent a further vio-
3 lation by using informal methods such as a conference, concili-
4 ation, or persuasion, and may enter into a conciliation agreement
5 with the person involved. Unless violated, a conciliation agree-
6 ment is a complete bar to any further action with respect to mat-
7 ters covered in the conciliation agreement. If the secretary of
8 state is unable to correct or prevent further violation by these
9 informal methods, the secretary of state may refer the matter to
10 the attorney general for the enforcement of any criminal penalty
11 provided by this act or commence a hearing pursuant to
12 subsection (6).

13 (6) The secretary of state may commence a hearing to deter-
14 mine whether a civil violation of this act has occurred. A hear-
15 ing shall not be commenced during the period beginning 30 days
16 before an election in which the committee has received or
17 expended money and ending the day after that election except with
18 the consent of the person suspected of committing a civil
19 violation. The hearing shall be conducted ~~in accordance with~~
20 PURSUANT TO the procedures set forth in chapter 4 of the adminis-
21 trative procedures act of 1969, Act No. 306 of the Public Acts of
22 1969, being sections 24.271 to 24.287 of the Michigan Compiled
23 Laws. If after a hearing the secretary of state determines that
24 a violation of this act has occurred, the secretary of state may
25 issue an order requiring the person to pay a civil fine equal to
26 the amount of the improper contribution or expenditure plus not
27 more than \$1,000.00 for each violation. A final decision and

1 order issued by the secretary of state is subject to judicial
2 review as provided by chapter 6 of the administrative procedures
3 act of 1969, Act No. 306 of the Public Acts of 1969, being sec-
4 tions 24.301 to 24.306 of the Michigan Compiled Laws. ~~-A-~~ THE
5 SECRETARY OF STATE SHALL TRANSMIT A civil fine imposed AND
6 COLLECTED under this section ~~shall be deposited~~ TO THE STATE
7 TREASURER FOR DEPOSIT in the ~~general fund~~ SECRETARY OF STATE
8 COMPUTERIZATION FUND CREATED BY SECTION 18. The secretary of
9 state may bring an action in circuit court to recover the amount
10 of a civil fine.

11 (7) When a report or statement is filed pursuant to this
12 act, the secretary of state shall review the report or statement
13 and may investigate an apparent violation of this act pursuant to
14 the rules promulgated pursuant to this act. If the secretary of
15 state determines that there may be reason to believe a violation
16 of this act has occurred and the procedures prescribed in subsec-
17 tion (5) have been complied with, the secretary of state may
18 refer the matter to the attorney general for the enforcement of
19 any criminal penalty provided by this act, or commence a hearing
20 under subsection (6) to determine whether a civil violation of
21 this act has occurred.

22 (8) Unless otherwise specified in this act, a person who
23 violates a provision of this act is subject to a civil fine of
24 not more than \$1,000.00 for each violation. Civil fines are in
25 addition to, but not limited by, any criminal penalty prescribed
26 by this act.

1 (9) The secretary of state may waive the filing of a
2 campaign statement required under section 33, 34, or 35 if the
3 closing date of the particular campaign statement falls on the
4 same or a later date as the closing date of the next campaign
5 statement filed by the same person, or if the period ~~which~~ THAT
6 would be otherwise covered by the next campaign statement filed
7 by the same person is 10 days or less.

8 (10) The clerk of each county shall do all of the
9 following:

10 (a) Make available through the county clerk's office the
11 appropriate forms, instructions, and manuals required by this
12 act.

13 (b) Under the supervision of the secretary of state, imple-
14 ment the filing, coding, and cross-indexing system prescribed for
15 the filing of reports and statements required to be filed with
16 the county clerk's office.

17 (c) Receive all statements and reports required by this act
18 to be filed with the county clerk's office.

19 (d) Upon written request, waive the payment of a late filing
20 fee if the request for a waiver is based on good cause as pre-
21 scribed in subsection ~~(+)(g)~~ (1)(F).

22 Sec. 16. (1) A filing official shall make a statement or
23 report required to be filed under this act available for public
24 inspection and reproduction ~~, commencing~~ DURING REGULAR BUSI-
25 NESS HOURS OF THE FILING OFFICIAL. THE FILING OFFICIAL SHALL
26 MAKE STATEMENTS AND REPORTS FILED UNDER THIS ACT AVAILABLE as
27 soon as practicable AFTER RECEIPT, but not later than the third

1 business day following the day on which ~~it~~ THE STATEMENT OR
2 REPORT is received. ~~, during regular business hours of the~~
3 ~~filing official.~~

4 (2) A FILING OFFICIAL SHALL PROVIDE A copy of a statement OR
5 REPORT or part of a statement ~~shall be provided by a filing~~
6 ~~official~~ OR REPORT at a reasonable charge.

7 (3) A PERSON SHALL NOT USE A statement OR REPORT open to the
8 public under this act ~~shall not be used~~ for any commercial
9 purpose.

10 (4) A FILING OFFICIAL SHALL PRESERVE A statement of organi-
11 zation filed under this act ~~shall be preserved by the filing~~
12 ~~official~~ for 5 years from the official date of the committee's
13 dissolution. A FILING OFFICIAL SHALL PRESERVE A statement or
14 report filed under this act by a candidate for an office with a
15 term exceeding 4 years ~~shall be preserved by the filing~~
16 ~~official~~ for 1 year beyond that candidate's term of office.
17 ~~Any~~ A FILING OFFICIAL SHALL PRESERVE ANY other statement or
18 report filed under this act ~~shall be preserved by the filing~~
19 ~~official~~ for 5 years from the date the filing occurred.

20 Statements and reports filed under this act may be reproduced
21 pursuant to the records media act, ACT NO. 116 OF THE PUBLIC ACTS
22 OF 1992, BEING SECTIONS 24.401 TO 24.403 OF THE MICHIGAN COMPILED
23 LAWS. After the required preservation period, the statements and
24 reports, or the reproductions of the statements and reports,
25 shall be destroyed.

26 (5) A ~~charge~~ FILING OFFICIAL shall not ~~be collected by a~~
27 ~~filing official~~ COLLECT A FEE for the filing of a required

1 statement or report, or for a form upon which ~~the~~ A REQUIRED
2 statement or report is to be prepared. ~~, except~~ HOWEVER, A
3 FILING OFFICIAL SHALL COLLECT a late filing fee AS required by
4 this act.

5 (6) A filing official shall determine whether a statement or
6 report filed under this act complies, on its face, with the
7 requirements of this act and the rules promulgated under this
8 act. The filing official shall determine whether a statement or
9 report that is required to be filed under this act is in fact
10 filed. Within 4 business days after the deadline for filing a
11 statement or report under this act, the filing official shall
12 give notice to the filer by registered mail of an error or omis-
13 sion in the statement or report and give notice to a person the
14 filing official has reason to believe is a person required to and
15 who failed to file a statement or report. A failure to give
16 notice by the filing official under this subsection is not a
17 defense to a criminal action against the person required to
18 file.

19 (7) Within 9 business days after the report or statement is
20 required to be filed, the filer shall make any corrections in the
21 statement or report ~~filed~~ AND FILE THE CORRECTIONS with the
22 appropriate filing official. If the report or statement was not
23 filed, ~~then it shall be late filed~~ THE PERSON SHALL FILE THE
24 REPORT OR STATEMENT WITH THE APPROPRIATE FILING OFFICIAL within 9
25 business days after the time it was required to be filed, ~~and~~
26 ~~shall be~~ WHICH STATEMENT OR REPORT IS CONSIDERED LATE FILED AND
27 IS subject to late filing fees.

1 (8) After 9 business days and before 12 business days have
2 expired after the deadline for filing the statement or report,
3 the filing official shall report errors or omissions that were
4 not corrected and failures to file to the attorney general.

5 (9) A PERSON SHALL FILE A statement or report required to be
6 filed under this act ~~shall be filed~~ not later than 5 p.m. of
7 the day in which it is required to be filed. A preelection
8 statement or report due on July 25 or October 25 under section 33
9 that is postmarked by registered or certified mail, or sent by
10 express mail or other overnight delivery service, at least 2 days
11 before the deadline for filing is filed within the prescribed
12 time regardless of when it is actually delivered. Any other
13 statement or report required to be filed under this act that is
14 postmarked by registered or certified mail or sent by express
15 mail or other overnight delivery service on or before the dead-
16 line for filing is filed within the prescribed time regardless of
17 when it is actually delivered.

18 Sec. 17. (1) A person paying a late filing fee as a result
19 of that person's failure to file a statement or report shall pay
20 that fee to the filing official with whom the statement or report
21 was required to be filed.

22 (2) ~~The~~ A FILING OFFICIAL, OTHER THAN THE SECRETARY OF
23 STATE, SHALL TRANSMIT ALL late filing fees collected pursuant to
24 ~~sections 24, 33, 34, and 35,~~ THIS ACT and copying charges col-
25 lected pursuant to section 16 ~~, shall be retained by and for the~~
26 ~~use of the filing officials collecting the fees or charges to~~
27 ~~cover their expenses in administering this act~~ TO THE SECRETARY

1 OF STATE BY THE TENTH DAY OF THE MONTH FOLLOWING THE MONTH IN
2 WHICH THE FEES WERE COLLECTED. THE SECRETARY OF STATE SHALL
3 TRANSMIT ALL LATE FILING FEES COLLECTED PURSUANT TO THIS ACT AND
4 COPYING CHARGES COLLECTED PURSUANT TO SECTION 16 TO THE STATE
5 TREASURER FOR DEPOSIT IN THE SECRETARY OF STATE COMPUTERIZATION
6 FUND CREATED BY SECTION 18.

7 (3) A late filing fee assessed by a ~~county clerk~~ FILING
8 OFFICIAL, OTHER THAN THE SECRETARY OF STATE, that remains unpaid
9 for more than 60 days shall be ~~considered a debt of the county~~
10 ~~and shall be collected by the county treasurer in the same manner~~
11 ~~as other county debts are collected~~ TRANSFERRED TO THE SECRETARY
12 OF STATE FOR FURTHER COLLECTION EFFORTS. A late filing fee
13 assessed BY A COUNTY CLERK AND TRANSFERRED TO THE SECRETARY OF
14 STATE OR ASSESSED by the secretary of state that remains unpaid
15 for more than 180 days shall be referred to the department of
16 treasury for collection. THE STATE TREASURER SHALL DEPOSIT ALL
17 LATE FILING FEES COLLECTED PURSUANT TO THIS SUBSECTION IN THE
18 SECRETARY OF STATE COMPUTERIZATION FUND CREATED BY SECTION 18.

19 (4) ~~-(3)-~~ A committee, other than a candidate committee or a
20 committee making expenditures in assistance of or in opposition
21 to the qualification, passage, or defeat of a ballot question,
22 required to file with the secretary of state is not required to
23 pay a late filing fee pursuant to sections 24, 33, 34, and 35, if
24 all of the following conditions are met:

25 (a) A committee required to register as a committee fails to
26 file a statement of organization.

1 (b) The secretary of state sends to that committee notice of
2 the committee's failure to file a statement of organization.

3 (c) At the same time or after the notice described in subdi-
4 vision (b) is sent, the secretary of state sends to that commit-
5 tee notice of the committee's failure to file a campaign state-
6 ment that was due for a period that occurred before the notice of
7 failure to file a statement of organization was sent.

8 (d) Within 10 business days after the notice of failure to
9 file a statement of organization is sent, the committee files a
10 statement of organization.

11 (e) Within 10 business days after the notice of failure to
12 file a campaign statement is sent, the committee files every cam-
13 paign statement that is due.

14 (5) ~~(4)~~ Late filing fees that would have occurred except
15 for subsection ~~(3)~~ (4) shall be assessed for each statement not
16 filed before the eleventh business day after a notice of failure
17 to file is sent pursuant to subsection ~~(3)~~ (4).

18 (6) ~~(5)~~ A committee other than a candidate committee that
19 has not previously filed a statement of organization is not
20 required to pay a late filing fee pursuant to sections 24, 33,
21 34, and 35, if the committee files a statement of organization
22 and every campaign statement that is due, before the secretary of
23 state sends a notice to that committee pursuant to
24 subsection ~~(3)~~ (4).

25 SEC. 18. (1) THE SECRETARY OF STATE COMPUTERIZATION FUND IS
26 CREATED IN THE STATE TREASURY. THE PURPOSE OF THE SECRETARY OF
27 STATE COMPUTERIZATION FUND IS TO PROVIDE FOR THE COMPUTERIZATION

1 OF ALL CAMPAIGN FINANCE STATEMENTS AND REPORTS FILED WITH THE
2 SECRETARY OF STATE UNDER THIS ACT. THE SECRETARY OF STATE SHALL
3 ONLY USE MONEY IN THE SECRETARY OF STATE COMPUTERIZATION FUND FOR
4 THE ACQUISITION AND MAINTENANCE OF COMPUTER HARDWARE AND SOFTWARE
5 FOR AND THE PERSONNEL COSTS ASSOCIATED WITH THE INPUTTING AND
6 PROCESSING OF ALL CAMPAIGN FINANCE STATEMENTS AND REPORTS
7 REQUIRED TO BE FILED UNDER THIS ACT.

8 (2) ON OR BEFORE APRIL 1, 1995, THE SECRETARY OF STATE SHALL
9 SUBMIT TO THE LEGISLATURE A COMPREHENSIVE COMPUTERIZATION PLAN
10 THAT INCLUDES, BUT IS NOT LIMITED TO, THE FOLLOWING:

11 (A) THE STATUS OF COMPUTERIZATION OF CAMPAIGN FINANCE STATE-
12 MENTS AND REPORTS.

13 (B) AN ANALYSIS OF THE NEEDS FOR COMPUTERIZATION OF CAMPAIGN
14 FINANCE STATEMENTS AND REPORTS.

15 (C) STANDARDS FOR COMPUTERIZATION OF CAMPAIGN FINANCE STATE-
16 MENTS AND REPORTS.

17 (D) A PLAN FOR THE DISTRIBUTION OF REVENUE FROM THE SECRE-
18 TARY OF STATE COMPUTERIZATION FUND THAT PROVIDES FOR DIRECT DIS-
19 BURSEMENTS FROM THE SECRETARY OF STATE COMPUTERIZATION FUND BY
20 THE SECRETARY OF STATE. THE SECRETARY OF STATE MAY APPROVE DIS-
21 BURSEMENTS THAT INCLUDE PAYMENT FOR SERVICES PROVIDED BY EMPLOY-
22 EES OF THIS STATE OR PRIVATE VENDORS, OR BY A COMBINATION OF
23 BOTH.

24 (3) THE SECRETARY OF STATE SHALL SUBMIT TO THE LEGISLATURE
25 AN ANNUAL UPDATE TO THE COMPREHENSIVE COMPUTERIZATION PLAN.

26 (4) THE STATE TREASURER SHALL CREDIT THE SECRETARY OF STATE
27 COMPUTERIZATION FUND WITH DEPOSITS OF PROCEEDS FROM THE

1 COLLECTION OF REVENUE FROM CIVIL FINES AND LATE FILING FEES
2 COLLECTED UNDER THIS ACT, APPROPRIATIONS MADE TO THE FUND, AND
3 ALL INCOME FROM INVESTMENT. THE STATE TREASURER MAY INVEST MONEY
4 CONTAINED IN THE SECRETARY OF STATE COMPUTERIZATION FUND IN ANY
5 MANNER AUTHORIZED BY LAW FOR THE INVESTMENT OF STATE MONEY.
6 HOWEVER, AN INVESTMENT SHALL NOT INTERFERE WITH ANY APPORTION-
7 MENT, ALLOCATION, OR PAYMENT OF MONEY AS REQUIRED BY THIS
8 SECTION.

9 (5) THE STATE TREASURER, AT THE DIRECTION OF THE SECRETARY
10 OF STATE, SHALL DISTRIBUTE MONEY FROM THE SECRETARY OF STATE COM-
11 PUTERIZATION FUND AT LEAST ANNUALLY AND MORE OFTEN AS THE SECRE-
12 TARY OF STATE CONSIDERS NECESSARY. MONEY IN THE SECRETARY OF
13 STATE COMPUTERIZATION FUND AT THE CLOSE OF EACH FISCAL YEAR SHALL
14 REMAIN IN THE FUND AND SHALL NOT REVERT TO THE GENERAL FUND.