

HOUSE BILL No. 5938

March 30, 2006, Introduced by Reps. Ward, Elsenheimer, Mortimer, Kooiman, Gosselin, LaJoy, Marleau, Rocca, Van Regenmorter, Murphy, Byrum, Kathleen Law, Byrnes, Angerer, Wojno, Gleason, Espinoza, McDowell, Vander Veen, Gaffney, Taub, Proos, Donigan, Clemente, Bieda, Stahl, Tobocman and Stewart and referred to the Committee on House Oversight, Elections, and Ethics.

A bill to regulate political activity; to regulate certain candidates for elective office and state officials; to require financial statements and reports; to prescribe the powers and duties of certain state and local governmental 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 "financial disclosure act".

3 Sec. 2. As used in this act:

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

6 (b) "Candidate for state office" means a candidate for any of

1 the following:

2 (i) The office of governor.

3 (ii) The office of lieutenant governor.

4 (iii) The office of attorney general.

5 (iv) The office of secretary of state.

6 (v) The office of state senator.

7 (vi) The office of state representative.

8 (vii) The office of head of a principal department as provided
9 in section 3 of article V of the state constitution of 1963, if the
10 office is filled by election.

11 (viii) The office of a member of a board or commission heading a
12 principal department as provided in section 3 of article V of the
13 state constitution of 1963, if the office is filled by election.

14 (ix) The office of judge of a court of record.

15 (x) The office of regent of the university of Michigan, member
16 of the board of trustees of Michigan state university, or member of
17 the board of governors of Wayne state university.

18 (c) "Earned income" means salaries, tips, and other employee
19 compensation, and net earnings from self-employment for the taxable
20 year.

21 (d) "Immediate family" means a child residing in an
22 individual's household, a spouse of an individual, or a person
23 claimed by that individual or that individual's spouse as a
24 dependent for federal income tax purposes.

25 (e) "Income" means money or any thing of value received, or to
26 be received as a claim on future services, whether in the form of a
27 fee, salary, expense, allowance, forbearance, forgiveness,

1 interest, dividend, royalty, rent, capital gain, or any other form
2 of recompense that is considered income under the internal revenue
3 code, 26 USC 1 to 1789.

4 (f) "Secretary of state" means the secretary of state or the
5 designee of the secretary of state.

6 (g) "State official" means all of the following:

7 (i) The holder of an office described in subdivision (b).

8 (ii) The head of each principal department as provided in
9 section 3 of article V of the state constitution of 1963, if the
10 office is filled by appointment.

11 (iii) A member of a board or commission heading a principal
12 department as provided in section 3 of article V of the state
13 constitution of 1963, if the office is filled by appointment.

14 Sec. 3. (1) If an individual was a state official at any time
15 during a calendar year, that individual shall file with the
16 secretary of state by May 1 of the following year a report that
17 meets the requirements of section 4 unless that individual is no
18 longer a state official.

19 (2) If an individual is a candidate for state office and has
20 not already filed a report under subsection (1) covering the
21 preceding calendar year, that individual shall file with the
22 secretary of state a report that meets the requirements of section
23 4 within 30 days after whichever of the following events is
24 applicable, but not later than 11 days before the first election at
25 which the individual's name appears on the ballot as a candidate
26 following the event:

27 (a) If the individual files a fee, affidavit of incumbency, or

1 nominating petition for the state office, the deadline for filing
2 the fee, affidavit of incumbency, or nominating petition
3 established by the Michigan election law, 1954 PA 116, MCL 168.1 to
4 168.992.

5 (b) If the individual is nominated at a political party caucus
6 or convention, the deadline for holding the caucus or convention
7 established by the Michigan election law, 1954 PA 116, MCL 168.1 to
8 168.992.

9 Sec. 4. Subject to section 5 and except as provided in section
10 6, a report required by section 3 shall include a complete
11 statement of all of the following:

12 (a) The name of each member of the immediate family of the
13 individual filing the report.

14 (b) The name and address of each employer of the individual
15 filing the report during the calendar year covered by the report.

16 (c) Both of the following, as applicable:

17 (i) The source, type, and amount or value of earned income
18 received during the preceding calendar year by the individual
19 filing the report if the total earned income from that source
20 equals \$1,000.00 or more during that calendar year.

21 (ii) The source and type of earned income received during the
22 preceding calendar year by the spouse of the individual filing the
23 report if the total earned income from that source equals \$1,000.00
24 or more during that calendar year.

25 (d) The source, type, and amount or value of all other income
26 not reported under subdivision (c) that is received during the
27 preceding calendar year by the individual filing the report or a

1 member of the immediate family of that individual if the total
2 income from that source equals \$1,000.00 or more during that
3 calendar year.

4 (e) The identity and value of each asset held during the
5 preceding calendar year by the individual filing the report or a
6 member of the immediate family of that individual, including real
7 or personal property or cash, if the asset had a fair market value
8 of \$1,000.00 or more at any time the asset was held during the
9 preceding calendar year. However, if the individual filing the
10 report owns or has an interest in all or a portion of a farm or
11 business, the identity and value of each asset held during the
12 preceding year that is used in the operation of the farm or
13 business is not required to be reported under this subdivision if
14 the report includes a complete statement of the identity and value
15 of the farm or business.

16 (f) The identity and value of each liability owed during the
17 preceding calendar year by the individual filing the report or a
18 member of the immediate family of that individual if the amount of
19 the liability was \$10,000.00 or more at any time during the
20 preceding calendar year. This subdivision does not apply to a loan
21 secured by the personal residence of the individual filing the
22 report or by a personal motor vehicle, household furniture, or
23 appliance, if the loan does not exceed the purchase price of the
24 item that secures the liability.

25 (g) A brief description and value of a purchase, sale, or
26 exchange of real property, other than real property used solely as
27 a personal residence by the individual filing the report and his or

1 her immediate family, or of stocks, bonds, commodities, futures, or
2 other forms of securities during the preceding calendar year by the
3 individual filing the report or a member of the immediate family of
4 that individual, if the value is \$1,000.00 or more. This
5 subdivision does not require a description of each purchase, sale,
6 or exchange of stocks, bonds, commodities, or other forms of
7 securities if those items are part of a mutual fund and if the
8 identity and value of the mutual fund is otherwise reported under
9 this act.

10 (h) Except as otherwise provided by this subdivision, the
11 identity of all positions held by the individual filing the report
12 during the preceding calendar year as an officer, director,
13 trustee, partner, proprietor, representative, employee, or
14 consultant of a corporation, partnership, or other business
15 enterprise; of a nonprofit organization; of a labor organization;
16 or of an educational or other institution. An individual filing the
17 report who is required to have a license to practice or engage in a
18 particular occupation or profession is not required to identify a
19 position held as a consultant of a corporation unless the
20 corporation is a publicly held corporation that has shares that are
21 listed or traded over the counter or on an organized exchange or
22 has gross revenues over \$4,000,000.00. This subdivision does not
23 require the reporting of a position held in a religious, social,
24 fraternal, or political entity, or of a position solely of an
25 honorary nature.

26 (i) If the individual filing the report has an agreement or
27 has made an arrangement with respect to future employment, a leave

1 of absence during that individual's term of office, continuation of
2 payments by a former employer, or continuation of participation in
3 an employee benefit plan maintained by a former employer, a
4 description of the agreement or arrangement, including the dates,
5 parties, and terms.

6 Sec. 5. (1) An amount or value reported under section 4(c),
7 (d), (e), or (g) shall be reported by category as follows:

8 (a) \$1,000.00 or more but less than \$10,000.00.

9 (b) \$10,000.00 or more but less than \$50,000.00.

10 (c) \$50,000.00 or more but less than \$100,000.00.

11 (d) \$100,000.00 or more but less than \$500,000.00.

12 (e) \$500,000.00 or more.

13 (2) An amount or value reported under section 4(f) shall be
14 reported by category as follows:

15 (a) \$10,000.00 or more but less than \$50,000.00.

16 (b) \$50,000.00 or more but less than \$100,000.00.

17 (c) \$100,000.00 or more but less than \$500,000.00.

18 (d) \$500,000.00 or more.

19 Sec. 6. A report under section 4 may omit any of the
20 following:

21 (a) Information required to be reported under the Michigan
22 campaign finance act, 1976 PA 388, MCL 169.201 to 169.282.

23 (b) A liability owed to the individual filing the report or a
24 relative within the third degree of consanguinity to that
25 individual if lent by the individual filing the report or a
26 relative within the third degree of consanguinity to that
27 individual.

1 (c) An item otherwise required to be reported under section
2 4(e), (f), or (g) if all of the following apply:

3 (i) The item represents the sole financial interest and
4 responsibility of a member of the immediate family of the
5 individual filing the report about which the individual filing the
6 report does not have actual knowledge.

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

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

12 (d) An item that concerns a spouse who is living separate and
13 apart from the individual filing the report with the intention of
14 terminating the marriage or maintaining a legal separation.

15 (e) An item that concerns income or obligations of the
16 individual filing the report arising from dissolution of his or her
17 marriage or a permanent legal separation from his or her spouse.

18 (f) Compensation from a publicly held corporation that has
19 shares that are listed or traded over the counter or on an
20 organized exchange paid to a business owned by the individual
21 filing the report or in which the individual filing the report has
22 an interest, if the report under section 4 includes a complete
23 statement of the identity and value of that business and the
24 individual filing the report is required to have a license as
25 described in section 4(h).

26 Sec. 7. The secretary of state shall do all of the following:

27 (a) Prepare and make available appropriate forms and

1 instructions for the reports required by this act.

2 (b) Receive reports required by this act.

3 (c) As soon as practicable, but not later than the end of the
4 business day on which a report required to be filed under this act
5 is received, make the report or all of the contents of the report
6 available without charge to the public on the internet at a single
7 website established and maintained by the secretary of state, and
8 not later than the third business day following the day on which
9 the report is received, make the report available for public
10 inspection and reproduction during regular business hours.

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

14 (e) Conduct investigations as necessary to determine whether
15 there is reason to believe that a violation of this act occurred.
16 Investigations shall be conducted pursuant to the administrative
17 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

18 Sec. 8. (1) A citizen of this state may file a complaint with
19 the secretary of state alleging a violation of this act. The
20 secretary of state, upon receipt of a complaint, shall investigate
21 the allegations as provided in section 7.

22 (2) If the secretary of state, upon investigation, determines
23 that there is reason to believe a violation of this act occurred,
24 the secretary of state shall forward the results of that
25 investigation to the attorney general for enforcement of this act.

26 (3) The attorney general shall enforce this act against an
27 individual who violates this act.

1 Sec. 9. (1) An individual who fails to file a report as
2 required under this act shall pay a late filing fee not to exceed
3 \$1,000.00, determined as follows:

4 (a) Twenty-five dollars for each of the first 3 business days
5 that the report remains unfiled.

6 (b) Fifty dollars for each of the next 7 business days after
7 the first 3 business days that the report remains unfiled.

8 (c) One hundred dollars for each business day after the first
9 10 business days that the report remains unfiled.

10 (2) If an individual required to file a report under this act
11 knowingly files an incomplete or inaccurate report, the individual
12 is guilty of a misdemeanor punishable by a fine of not more than
13 \$1,000.00 or imprisonment for not more than 90 days, or both.

14 (3) If an individual required to file a report under this act
15 fails to file 2 reports and if both of the reports remain unfiled
16 for more than 30 days, the individual is guilty of a misdemeanor
17 punishable by a fine of not more than \$1,000.00 or imprisonment for
18 not more than 90 days, or both.

19 (4) A default in the payment of a fee or civil fine due or
20 ordered under this act, or an installment of the fee or fine, may
21 be remedied by any means available under the revised judicature act
22 of 1961, 1961 PA 236, MCL 600.101 to 600.9947.