

Legislative Analysis



FINANCIAL DISCLOSURE ACT

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House Bill 4285

Sponsor: Rep. Steve Tobocman

Committee: Ethics and Elections

Complete to 3-13-07

A SUMMARY OF HOUSE BILL 4285 AS INTRODUCED 2-20-07

The bill would create a new act to be known as the Financial Disclosure Act. The bill would require candidates for some elective offices and some state officials to file financial disclosure reports with the secretary of state.

Under the bill, "candidate for state office" means a candidate for the office of governor, lieutenant governor, attorney general, secretary of state, state senator, state representative, a principal department head if that position is elected, a member of a board or commission heading a principal department if that office is filled by election, a judge, and the regents, trustees, and board of governors of the University of Michigan, Michigan State University, and Wayne State University, respectively.

"State official" is defined to mean the holders of the offices listed above, as well as the heads of the principal departments and the members of boards or commission heading principal departments, as provided in section 3 of Article V of the State Constitution, if the offices are filled by appointment.

The bill would require any individual who was a state official at any time during a calendar year, to file with the secretary of state by May 1, a report that made public the following information:

- The name of each member of the immediate family.
- The name and address of each employer.
- Both of the following, as applicable: (1) the source, type, and amount or value of earned income received during the preceding calendar year, if the total equaled \$1,000 or more during the calendar year; and (2) the source and type of earned income received by the individual's spouse, if that source equaled \$1,000 or more during the year ("earned income" is defined to mean salaries, tips, and other employee compensation, and net earnings from self-employment for the taxable year).
- The source, type, and amount or value of all other income not reported above, earned by both the state official and the state official's spouse, if it equaled \$1,000 or more ("income" is defined to mean money or any thing of value received, or to be received as a claim on future services, whether in the form of a fee, salary, expense, allowance,

forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of recompense that is considered under the internal revenue code).

- The identity and value of each asset held during the preceding calendar year by the individual filing or a member of the immediate family (defined as a child residing in an individual's household, a spouse of an individual, or a person claimed by the individual or the spouse as a dependent), including real or personal property or cash, if the asset had a fair market value of \$1,000 or more.
- The identity and value of each liability owed during the preceding calendar year by the individual or an immediate family member if the amount of the liability was \$10,000 or more. (However, this would not apply to a loan secured by the personal residence, or by a personal motor vehicle, household furniture, or appliance, if the loan did not exceed the purchase price of the item that secured the liability).
- A brief description and value of a purchase, sale, or exchange of real property, other than real property used solely as a personal residence by the individual filing the report and his or her immediate family, or of stocks, bonds, commodities, futures, or other forms of securities during the preceding calendar year by the individual or a member of the immediate family, if the value was \$1,000 or more. (However, this would not require a description if these items were part of a mutual fund, and that mutual fund was otherwise reported under this act).
- The identity of all positions held during the preceding year by the individual filing the report, as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of a corporation, partnership, or other business enterprise; of a nonprofit organization; of a labor organization; or of an educational or other institution. (However, an individual who is required to have a license to practice an occupation or profession is not required to identify a position held as a consultant of a corporation unless the corporation is a publicly held corporation that has shares that are listed or traded over the counter or on an organized exchange, or has gross revenues over \$4,000,000. Further, this provision would not require the reporting of a position held in a religious, social, fraternal, or political entity, or of a position solely of an honorary nature).
- A description (including the dates, parties, and terms) of any agreement or arrangement the individual had with respect to future employment, a leave of absence during the term of office, continuation of payments by a former employer, or continuation in an employee benefit plan.

The bill specifies that an amount or value that is disclosed be reported by categories, and describes them. The bill also describes the kinds of information that need *not* be disclosed; these would include, among other things, information required to be reported under the Michigan Campaign Finance Act, and items that concern a spouse who is living separate and apart from the state officer.

Under the bill, the secretary of state would be required to do all of the following:

- Prepare and make available appropriate forms and instructions for the reports.
- Receive reports.
- Make the report available without charge to the public on the Internet not later than the end of the business day the report is received, and within three days, make the report available for inspection and reproduction.
- Promulgate rules and issue declaratory rulings to implement the act under the Administrative Procedure Act.
- Conduct investigations as necessary to determine whether there is reason to believe that a violation of the act occurred.

The bill also specifies that a citizen could file a complaint with the secretary of state alleging a violation of the act. If the secretary of state determined there was reason to believe a violation had occurred, the results of the investigation would be forwarded to the attorney general for enforcement.

An individual who failed to file a report would be required to pay a late filing fee not to exceed \$1,000, determined as follows: \$25 for each of the first three business days that the report remained un-filed; \$50 for each of the next seven business days; and \$100 for each business day after the first 10 days. An individual who knowingly filed an incomplete report would be guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$1,000, or both. The same penalty would apply if an individual failed to file two reports for more than 30 days. The bill specifies that a default in the payment of a fee or civil fine due or ordered under the act, or an installment of the fee or fine, could be remedied by any means available under the Revised Judicature Act.

FISCAL IMPACT:

A fiscal analysis is in process.

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