

**SUBSTITUTE FOR
HOUSE BILL NO. 4285**

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) "Bureau of elections" means the bureau provided for by
5 section 32 of the Michigan election law, 1954 PA 116, MCL 168.32.

6 (b) "Candidate" means that term as defined in section 3 of the

House Bill No. 4285 (H-2) as amended March 15, 2007

Michigan campaign finance act, 1976 PA 388, MCL 169.203.

(c) "Candidate for state [or local] office" means a candidate for any of the following offices:

(i) Governor.

(ii) Lieutenant governor.

(iii) Secretary of state.

(iv) Attorney general.

(v) State senator.

(vi) State representative.

(vii) Member of the state board of education.

(viii) Justice of the supreme court or judge of a court of record.

(ix) Regent of the university of Michigan, member of the board of trustees of Michigan state university, or member of the board of governors of Wayne state university.

[x) An elective public office for which the compensation is greater than 2 times the statewide median gross income as determined under section 143(f) of the internal revenue code, 26 USC 143(f).]

(d) "Earned income" means salaries, tips, and other compensation, and net earnings from self-employment for the taxable year.

(e) "Immediate family" means a dependent child, a spouse of an individual, or a person claimed by that individual or that individual's spouse as a dependent for federal income tax purposes.

(f) "Income" means 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 income under the internal revenue code of 1986, 26 USC 1 to 9833.

House Bill No. 4285 (H-2) as amended March 15, 2007

(g) "Principal residence" means that term as defined under section 7dd of the general property tax act, 1893 PA 206, MCL 211.7dd.

(h) ["State or local official"] means any of the following:

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

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

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

Sec. 3. (1) If an individual is a state [or local] official at any time during a calendar year, that individual shall file with the bureau of elections by May 1 of the following year a report that meets the requirements of section 4. This subsection does not apply to an individual who was a state [or local] official only on the first day of the calendar year.

(2) If an individual is a candidate for state [or local] office and has not already filed a report under subsection (1) covering the preceding calendar year, that individual shall file with the [bureau of elections] a report that meets the requirements of section 4 within 30 days after the earliest of the following events, but not later than 11 days before the first election at which the individual's name appears on the ballot as a candidate following the event:

(a) If the individual files a fee, affidavit of incumbency, or nominating petition for the state office, the deadline for filing

House Bill No. 4285 (H-2) as amended March 15, 2007

1 the fee, affidavit of incumbency, or nominating petition

2 established by the Michigan election law, 1954 PA 116, MCL 168.1 to
3 168.992.

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

8 (c) The date on which the individual first receives a
9 contribution, makes an expenditure, or gives consent for another
10 person to receive a contribution or make an expenditure with the
11 purpose or intent of bringing about the individual's nomination or
12 election to a state office.

13 (d) The date on which the individual forms a candidate
14 committee as a candidate for state [or local] office under section 21 of
15 the
Michigan campaign finance act, 1976 PA 388, MCL 169.221.

16 (3) An individual who is a candidate for the office of
17 governor shall file with the [bureau of elections] on June 15 of the
18 year in which the election for the office of governor will be held
19 a copy of the individual's federal tax returns for the 3 preceding
20 calendar years. A social security number on a tax return filed
21 under this subsection may be redacted.

22 Sec. 4. (1) Subject to section 5 and except as provided in
23 section 6, a report required by section 3 shall include a complete
24 statement of all of the following:

25 (a) The full name, address, occupation of, and the state
26 office held or sought by, the individual filing the report.

27 (b) The name of each member of the immediate family of the

1 individual filing the report.

2 (c) The name and address of each employer of the individual
3 filing the report during the calendar year covered by the report.

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

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

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

13 (e) The source, type, and amount or value of all other income
14 not reported under subdivision (d) that is received during the
15 preceding calendar year by the individual filing the report or a
16 member of the immediate family of that individual if the total
17 income from that source equals \$1,000.00 or more during that
18 calendar year.

19 (f) The identity and value of each asset held during the
20 preceding calendar year by the individual filing the report or a
21 member of the immediate family of that individual, including real
22 or personal property or cash, if the asset had a fair market value
23 of \$10,000.00 or more at any time the asset was held during the
24 preceding calendar year. However, if the individual filing the
25 report owns or has an interest in all or a portion of a farm or
26 business, the identity and value of each asset held during the
27 preceding year that is used in the operation of the farm or

1 business is not required to be reported under this subdivision if
2 the report includes a complete statement of the identity and value
3 of the farm or business.

4 (g) The identity and value of each liability owed during the
5 preceding calendar year by the individual filing the report or a
6 member of the immediate family of that individual if the amount of
7 the liability was \$10,000.00 or more at any time during the
8 preceding calendar year. This subdivision does not apply to loans
9 secured by the principal residence of the individual filing the
10 report or by a personal motor vehicle, household furniture, or
11 appliance, if the loans do not exceed the greater of the purchase
12 price or the market value of the item that secures the liability.

13 (h) A brief description and value of a purchase, sale, or
14 exchange of real property, other than real property used solely as
15 a principal residence by the individual filing the report and his
16 or her immediate family, or of stocks, bonds, commodities, futures,
17 or other forms of securities during the preceding calendar year by
18 the individual filing the report or a member of the immediate
19 family of that individual, if the value is \$1,000.00 or more. This
20 subdivision does not require a description of each purchase, sale,
21 or exchange of stocks, bonds, commodities, or other forms of
22 securities if those items are part of a mutual fund and if the
23 identity and value of the mutual fund is otherwise reported under
24 this act.

25 (i) Except as otherwise provided by this subdivision, the
26 identity of all positions held by the individual filing the report
27 during the preceding calendar year as an officer, director, member,

1 trustee, partner, proprietor, representative, employee, or
2 consultant of a corporation, limited liability company, limited
3 partnership, partnership, or other business enterprise; of a
4 nonprofit organization; of a labor organization; or of an
5 educational or other institution other than this state. An
6 individual filing the report who is required to have a license to
7 practice or engage in a particular occupation or profession is not
8 required to identify a position held as a consultant of a
9 corporation unless the corporation is a publicly held corporation
10 that has shares that are listed or traded over the counter or on an
11 organized exchange or has gross revenues over \$4,000,000.00. This
12 subdivision does not require the reporting of a position held in a
13 religious, social, fraternal, or political entity, or of a position
14 solely of an honorary nature.

15 (j) If the individual filing the report has an agreement or
16 has made an arrangement with respect to future employment, a leave
17 of absence during that individual's term of office, continuation of
18 payments by a former employer, or continuation of participation in
19 an employee benefit plan maintained by a former employer, a
20 description of the agreement or arrangement, including the dates,
21 parties, and terms.

22 (2) Information required to be reported under this section
23 shall include information with respect to the holdings of and the
24 income from a trust or other financial arrangement from which
25 income is received by, or with respect to which a beneficial
26 interest in principal or income is held by, an individual required
27 to file a report under this section or an immediate family member

1 of the individual.

2 Sec. 5. (1) An amount or value reported under section 4(d),
3 (e), (f), or (h) shall be reported by category as follows:

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

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

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

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

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

9 (2) An amount or value reported under section 4(g) shall be
10 reported by category as follows:

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

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

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

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

15 (3) Instead of specifying the category of the amount or value
16 of an item in a report under this act, an individual may indicate
17 the exact amount or value of the item.

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

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

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

27 (c) An item otherwise required to be reported under section

1 4(f), (g), or (h) if all of the following apply:

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

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

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

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

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

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

25 (g) Benefits received under the social security act, chapter
26 531, 49 Stat. 620.

27 Sec. 7. The bureau of elections shall do all of the following:

1 (a) Prepare and make available appropriate forms and
2 instructions for the reports required by this act.

3 (b) Receive reports required by this act.

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

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

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

23 (2) If the bureau of elections, upon investigation, determines
24 that there is reason to believe a violation of this act occurred,
25 the bureau of elections shall forward the results of that
26 investigation to the attorney general for enforcement of this act,
27 if the attorney general is not the subject of the complaint. If the

House Bill No. 4285 (H-2) as amended March 15, 2007

1 bureau of elections, upon investigation, determines that there is
2 reason to believe that the attorney general violated this act, the
3 [bureau of elections] shall forward the results of the investigation
4 to the prosecuting attorney for Ingham county for enforcement of
5 this act.

6 (3) The attorney general or, if the attorney general is the
7 individual who is alleged to have violated this act, the
8 prosecuting attorney for Ingham county shall enforce this act
9 against an individual who violates this act.

10 Sec. 9. (1) An individual who fails to file a report as
11 required under this act shall pay a late filing fee not to exceed
12 \$1,000.00, determined as follows:

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

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

17 (c) One hundred dollars for each business day after the first
18 10 business days that the report remains unfiled.

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

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

House Bill No. 4285 (H-2) as amended March 15, 2007

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

5 Enacting section 1. This act takes effect [May 2], 2008.