

SUBSTITUTE FOR
HOUSE BILL NO. 4381

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

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

3 (i) Governor.

4 (ii) Lieutenant governor.

5 (iii) Secretary of state.

6 (iv) Attorney general.

7 (v) State senator.

8 (vi) State representative.

9 (vii) Member of the state board of education.

10 (viii) Justice of the supreme court.

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

14 (x) An elective public office for which the compensation is
15 greater than 1.5 times the statewide median gross income as
16 determined under section 143(f) of the internal revenue code, 26
17 USC 143(f), excluding a judge of a court of record.

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

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

24 (f) "Income" means money or any thing of value received, or to
25 be received as a claim on future services, whether in the form of a
26 fee, salary, expense, allowance, forbearance, forgiveness,
27 interest, dividend, royalty, rent, capital gain, or any other form

1 of recompense that is considered income under the internal revenue
2 code of 1986, 26 USC 1 to 9833.

3 (g) "Principal residence" means that term as defined under
4 section 7dd of the general property tax act, 1893 PA 206, MCL
5 211.7dd.

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

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

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 is a state or local official at
15 any time during a calendar year, that individual shall file with
16 the bureau of elections by May 1 of the following year a report
17 that meets the requirements of section 4. This subsection does not
18 apply to an individual who was a state or local official only on
19 the first day of the calendar year.

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

1 (a) If the individual files a fee, affidavit of incumbency, or
2 nominating petition for the state office, the deadline for filing
3 the fee, affidavit of incumbency, or nominating petition
4 established by the Michigan election law, 1954 PA 116, MCL 168.1 to
5 168.992.

6 (b) If the individual is nominated at a political party caucus
7 or convention, the deadline for holding the caucus or convention
8 established by the Michigan election law, 1954 PA 116, MCL 168.1 to
9 168.992.

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

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

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

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

27 (a) The full name, address, occupation of, and the state

1 office held or sought by, the individual filing the report.

2 (b) The name of each member of the immediate family of the
3 individual filing the report.

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

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

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

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

15 (e) The source, type, and amount or value of all other income
16 not reported under subdivision (d) that is received 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 total
19 income from that source equals \$1,000.00 or more during that
20 calendar year.

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

1 business, the identity and value of each asset held during the
2 preceding year that is used in the operation of the farm or
3 business is not required to be reported under this subdivision if
4 the report includes a complete statement of the identity and value
5 of the farm or business.

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

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

27 (i) Except as otherwise provided by this subdivision, the

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

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

24 (2) Information required to be reported under this section
25 shall include information with respect to the holdings of a trust
26 that is not an irrevocable trust and the income from any trust or
27 other financial arrangement from which income is received by, or

1 with respect to which a beneficial interest in principal or income
2 is held by, an individual required to file a report under this
3 section or an immediate family member of the individual.

4 (3) Information required to be reported under this section
5 need not be identified to a particular member of the immediate
6 family of the individual filing the report.

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

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

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

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

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

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

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

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

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

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

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

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

23 Sec. 6. A report under section 4 may omit any of the
24 following:

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

27 (b) A liability owed to the individual filing the report or a

1 relative within the third degree of consanguinity to that
2 individual if lent by the individual filing the report or a
3 relative within the third degree of consanguinity to that
4 individual.

5 (c) An item otherwise required to be reported under section
6 4(f), (g), or (h) if all of the following apply:

7 (i) The item represents the sole financial interest and
8 responsibility of a member of the immediate family of the
9 individual filing the report about which the individual filing the
10 report does not have actual knowledge.

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

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

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

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

22 (f) Compensation from a publicly held corporation that has
23 shares that are listed or traded over the counter or on an
24 organized exchange paid to a business owned by the individual
25 filing the report or in which the individual filing the report has
26 an interest, if the report under section 4 includes a complete
27 statement of the identity and value of that business and the

1 individual filing the report is required to have a license as
2 described in section 4(i).

3 (g) Benefits received under the social security act, chapter
4 531, 49 Stat. 620.

5 (h) Information concerning assets in or income from a Michigan
6 education trust contract.

7 Sec. 7. A judge of a court of record shall report the date,
8 place, and nature of any activity for which the judge received
9 compensation, the name of the payor, and the amount of compensation
10 received. The judge's report shall be made at least annually and
11 shall be filed as a public document in the office of the state
12 court administrator.

13 Sec. 8. The bureau of elections shall do all of the following:

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

16 (b) Receive reports as required by this act.

17 (c) As soon as practicable, but not later than the end of the
18 business day on which a report required to be filed under this act
19 is received, make the report or all of the contents of the report
20 available without charge to the public on the internet at a single
21 website established and maintained by the secretary of state, and
22 not later than the third business day following the day on which
23 the report is received, make the report available for public
24 inspection and reproduction during regular business hours.

25 (d) If the information provider so requests, redact
26 information that could identify the precise location of real or
27 personal property before making the contents of a report available

1 to the public as required under subdivision (c).

2 (e) Promulgate rules and issue declaratory rulings to
3 implement this act pursuant to the administrative procedures act of
4 1969, 1969 PA 306, MCL 24.201 to 24.328. Rules may provide for the
5 redaction of information in a report before release to the public
6 if the information may jeopardize the personal safety of a person
7 identified in the report.

8 (f) Conduct investigations as necessary to determine whether
9 there is reason to believe that a violation of this act occurred.
10 Investigations shall be conducted pursuant to the administrative
11 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

12 Sec. 9. (1) A citizen of this state may file a complaint with
13 the bureau of elections alleging a violation of this act. The
14 bureau of elections, upon receipt of a complaint, shall investigate
15 the allegations as provided in section 8.

16 (2) If the bureau of elections, upon investigation, determines
17 that there is reason to believe a violation of this act occurred,
18 the bureau of elections shall forward the results of that
19 investigation to the attorney general for enforcement of this act,
20 if the attorney general is not the subject of the complaint. If the
21 bureau of elections, upon investigation, determines that there is
22 reason to believe that the attorney general violated this act, the
23 bureau of elections shall forward the results of the investigation
24 to the prosecuting attorney for Ingham county for enforcement of
25 this act.

26 (3) The attorney general or, if the attorney general is the
27 individual who is alleged to have violated this act, the

1 prosecuting attorney for Ingham county shall enforce this act
2 against an individual who violates this act.

3 Sec. 10. (1) An individual who fails to file a report as
4 required under this act shall pay a late filing fee not to exceed
5 \$1,000.00, determined as follows:

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

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

10 (c) One hundred dollars for each business day after the first
11 10 business days that the report remains unfiled.

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

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

21 (4) A default in the payment of a fee due or ordered under
22 this act, or an installment of the fee, may be remedied by any
23 means available under the revised judicature act of 1961, 1961 PA
24 236, MCL 600.101 to 600.9947.

25 Enacting section 1. This act takes effect May 2, 2010.