

# HOUSE BILL No. 5663

June 11, 2014, Introduced by Rep. Irwin and referred to the Committee on Government Operations.

A bill to require annual financial disclosures from certain state employees; to prescribe the powers and duties of certain state 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       "unclassified employee financial disclosure act".

3       Sec. 2. As used in this act:

4       (a) "Earned income" means salaries, tips, other compensation,  
5       and net earnings from self-employment for the tax year.

6       (b) "Immediate family" includes a dependent child of the  
7       individual, a spouse of the individual, or another individual  
8       claimed by the individual or the individual's spouse as a dependent

1 for federal income tax purposes.

2 (c) "Income" means money or anything of value received, or to  
3 be received as a claim on future services, whether in the form of a  
4 fee, salary, expense, allowance, forbearance, forgiveness,  
5 interest, dividend, royalty, rent, capital gain, or any other form  
6 of recompense that is considered income under the internal revenue  
7 code of 1986, 26 USC 1 to 9834.

8 (d) "Principal residence" means that term as defined under  
9 section 7dd of the general property tax act, 1893 PA 206, MCL  
10 211.7dd.

11 (e) "Unclassified employee" means an individual who is  
12 employed in a position in the executive branch of state government  
13 that is excluded or exempt from the state classified service.

14 Sec. 3. (1) An individual who is hired as an unclassified  
15 state employee after the effective date of this act shall file with  
16 the legislature a report that meets the requirements of section 4  
17 within 30 days after the date of hire.

18 (2) An individual who is an unclassified state employee at any  
19 time during a calendar year shall file with the legislature by May  
20 1 of the following year a report that meets the requirements of  
21 section 4.

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

25 (a) The full name, address, occupation, and position held by  
26 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 preceding calendar year.

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, type, and amount or value of earned income  
10 received during the preceding calendar year by the spouse of the  
11 individual filing the report if the total earned income from that  
12 source equals \$1,000.00 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 a farm or business, the identity  
26 and value of each asset held during the preceding year that is used  
27 in the operation of the farm or business is not required to be

1 reported under this subdivision if the report includes a complete  
2 statement of the identity and value of the individual's interest in  
3 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 in this subdivision, all  
26 positions held by the individual filing the report during the  
27 preceding calendar year as an officer, director, member, trustee,

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

26 (3) If an individual is required to report information under  
27 this section, he or she is not required to identify any particular

1 member of his or her immediate family in that information.

2 Sec. 5. (1) An amount or value reported under section 4(1)(d),  
3 (e), 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(1)(f) or (g)  
10 shall be 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 3 may omit any of the  
19 following:

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

25 (b) An item otherwise required to be reported under section  
26 4(1)(f), (g), or (h) if all of the following apply:

27 (i) The item represents the sole financial interest and

1 responsibility of a member of the immediate family of the  
2 individual filing the report about which the individual filing the  
3 report does not have actual knowledge.

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

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

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

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

15 (e) Compensation from a publicly held corporation that has  
16 shares that are listed or traded over the counter or on an  
17 organized exchange paid to a business owned by the individual  
18 filing the report or in which the individual filing the report has  
19 an interest, if the report under section 3 includes a complete  
20 statement of the identity and value of that business and the  
21 individual filing the report is required to have a license as  
22 described in section 4(1)(i).

23 (f) Benefits received under the social security act, chapter  
24 531, 49 Stat. 620.

25 (g) Information concerning assets in or income from a Michigan  
26 education trust contract.

27 Sec. 7. The secretary of the senate and the clerk of the house

1 of representatives shall do all of the following:

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

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

5 (c) Subject to subdivision (d), as soon as practicable, but  
6 not later than the end of the business day on which a report  
7 required to be filed under this act is received, make the report or  
8 all of the contents of the report available without charge to the  
9 public on the internet at a single website established and  
10 maintained by the legislature.

11 (d) If the information provider so requests, redact  
12 information that could identify the precise location of real or  
13 personal property before making the contents of a report available  
14 to the public as required under subdivision (c).

15 (e) Assist the legislature in conducting investigations as  
16 necessary to determine whether there is reason to believe that a  
17 violation of this act occurred.

18 Sec. 8. (1) A citizen of this state may file a complaint with  
19 the secretary of the senate or the clerk of the house of  
20 representatives alleging a violation of this act. If it receives a  
21 complaint, the legislature shall investigate the allegations.

22 (2) If the legislature determines after an investigation that  
23 there is reason to believe a violation of this act occurred, the  
24 legislature shall forward the results of that investigation to the  
25 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) If an individual who is required to file a report  
2 under this act knowingly files an incomplete or inaccurate report,  
3 the individual is guilty of a misdemeanor punishable by  
4 imprisonment for not more than 90 days or a fine of not more than  
5 \$1,000.00, or both.

6           (2) If an individual who is required to file a report under  
7 this act fails to file 2 reports and if both of the reports remain  
8 unfiled for more than 30 days, the individual is guilty of a  
9 misdemeanor punishable by imprisonment for not more than 90 days or  
10 a fine of not more than \$1,000.00, or both.