

HOUSE BILL No. 5322

December 5, 2017, Introduced by Reps. Calley, Lucido, Howrylak, Marino, Leutheuser, Sabo, Brann and Hughes and referred to the Committee on Elections and Ethics.

A bill to amend 1976 PA 388, entitled "Michigan campaign finance act," by amending sections 33 and 34 (MCL 169.233 and 169.234), section 33 as amended by 2017 PA 119 and section 34 as amended by 2012 PA 277.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 33. (1) A committee, other than an independent committee,
2 an independent expenditure committee, or a political committee
3 required to file with the secretary of state, supporting or
4 opposing a candidate shall file complete campaign statements as
5 required by this act and the rules promulgated under this act
6 according to the following schedule:

7 (a) ~~A~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION (C), A**

1 preelection campaign statement must be filed not later than the
2 ~~eleventh~~**TWENTY-FIFTH** day **OF THE MONTH** before an election. The
3 closing date for a campaign statement filed under this subdivision
4 is the ~~sixteenth~~**TWENTIETH** day **OF THE MONTH** before the election.

5 (b) ~~A~~**EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION (C), A**
6 postelection campaign statement must be filed not later than the
7 ~~thirtieth~~**TWENTY-FIFTH** day ~~following~~**OF THE MONTH OF** the election.
8 The closing date for a campaign statement filed under this
9 subdivision is the twentieth day ~~following~~**OF THE MONTH OF** the
10 election. A committee supporting a candidate who loses the primary
11 election shall file closing campaign statements in accordance with
12 this section. If all liabilities of that candidate or committee are
13 paid before the closing date and additional contributions are not
14 expected, the campaign statement may be filed at any time after the
15 election, but not later than the ~~thirtieth~~**TWENTY-FIFTH** day
16 ~~following~~**OF THE MONTH OF** the election.

17 (C) **FOR AN ELECTION OCCURRING IN CONJUNCTION WITH A**
18 **PRESIDENTIAL PRIMARY ELECTION, OR FOR A SPECIAL ELECTION HELD ON A**
19 **DATE OTHER THAN A REGULAR ELECTION DATE PROVIDED IN SECTION 641 OF**
20 **THE MICHIGAN ELECTION LAW, 1954 PA 116, MCL 168.641, A PREELECTION**
21 **STATEMENT MUST BE FILED NOT LATER THAN THE ELEVENTH DAY BEFORE THE**
22 **ELECTION, AND THE CLOSING DATE FOR THE STATEMENT IS THE SIXTEENTH**
23 **DAY BEFORE THE ELECTION. A POSTELECTION CAMPAIGN STATEMENT UNDER**
24 **THIS SUBDIVISION MUST BE FILED NOT LATER THAN THE TWENTY-FIFTH DAY**
25 **FOLLOWING THE ELECTION, AND THE CLOSING DATE FOR THE STATEMENT IS**
26 **THE TWENTIETH DAY FOLLOWING THE ELECTION. A COMMITTEE SUPPORTING A**
27 **CANDIDATE WHO LOSES A SPECIAL PRIMARY ELECTION SHALL FILE CLOSING**

1 CAMPAIGN STATEMENTS IN ACCORDANCE WITH THIS SUBDIVISION. IF ALL
2 LIABILITIES OF THAT CANDIDATE OR COMMITTEE ARE PAID BEFORE THE
3 CLOSING DATE AND ADDITIONAL CONTRIBUTIONS ARE NOT EXPECTED, THE
4 CAMPAIGN STATEMENT MAY BE FILED AT ANY TIME AFTER THE ELECTION, BUT
5 NOT LATER THAN THE TWENTY-FIFTH DAY FOLLOWING THE ELECTION.

6 (D) ~~(e)~~—For candidate committees only, in a year in which
7 there is no election for the candidate the candidate committee is
8 supporting or opposing:

9 (i) Not later than July 25 with a closing date of July 20 of
10 that year.

11 (ii) Not later than October 25 with a closing date of October
12 20 of that year.

13 (2) For the purposes of subsection (1):

14 (a) A candidate committee shall file a preelection campaign
15 statement and a postelection campaign statement for each election
16 in which the candidate seeks nomination or election, except if an
17 individual becomes a candidate after the closing date for the
18 preelection campaign statement only the postelection campaign
19 statement is required for that election.

20 (b) A committee other than a candidate committee shall file a
21 campaign statement for each period during which expenditures are
22 made for the purpose of influencing the nomination or election of a
23 candidate or for the qualification, passage, or defeat of a ballot
24 question.

25 (3) An independent committee, an independent expenditure
26 committee, or a political committee other than a house political
27 party caucus committee or senate political party caucus committee

1 required to file with the secretary of state shall file campaign
2 statements as required by this act according to the following
3 schedule:

4 (a) Not later than April 25 of each year with a closing date
5 of April 20 of that year.

6 (b) Not later than July 25 of each year with a closing date of
7 July 20 of that year.

8 (c) Not later than October 25 of each year with a closing date
9 of October 20 of that year.

10 (4) A house political party caucus committee or a senate
11 political party caucus committee required to file with the
12 secretary of state or a political party committee for a party
13 attempting to qualify as a new political party under section 685 of
14 the Michigan election law, 1954 PA 116, MCL 168.685, shall file
15 campaign statements as required by this act according to the
16 following schedule:

17 (a) Not later than January 31 of each year with a closing date
18 of December 31 of the immediately preceding year.

19 (b) Not later than April 25 of each year with a closing date
20 of April 20 of that year.

21 (c) Not later than July 25 of each year with a closing date of
22 July 20 of that year.

23 (d) Not later than October 25 of each year with a closing date
24 of October 20 of that year.

25 (e) For the period beginning on the fourteenth day immediately
26 preceding a primary or special primary election and ending on the
27 day immediately following the primary or special primary election,

1 not later than 4 p.m. each business day with a closing date of the
2 immediately preceding day, only for a contribution received or
3 expenditure made that exceeds \$1,000.00 per day.

4 (f) For the period beginning on the fourteenth day immediately
5 preceding a general or special election and ending on the day
6 immediately following the general or special election, not later
7 than 4 p.m. each business day with a closing date of the
8 immediately preceding day, only for a contribution received or
9 expenditure made that exceeds \$1,000.00 per day.

10 (5) Notwithstanding subsection (3) or (4) or section 51, if an
11 independent expenditure is made within 45 days before a special
12 election by an independent committee, an independent expenditure
13 committee, or a political committee required to file a campaign
14 statement with the secretary of state, the committee shall file a
15 report of the expenditure with the secretary of state within 48
16 hours after the expenditure. The report must be made on a form
17 provided by the secretary of state and must include the date of the
18 independent expenditure, the amount of the expenditure, a brief
19 description of the nature of the expenditure, and the name and
20 address of the person to whom the expenditure was paid. The brief
21 description of the expenditure must include either the name of the
22 candidate and the office sought by the candidate or the name of the
23 ballot question and state whether the expenditure supports or
24 opposes the candidate or ballot question. This subsection does not
25 apply if the committee is required to report the independent
26 expenditure in a campaign statement that is required to be filed
27 before the date of the election for which the expenditure was made.

1 (6) A candidate committee or a committee other than a
2 candidate committee that files a written statement under section
3 24(5) or (6) or that is automatically considered to have made a
4 statement under section 24(5) is not required to file a campaign
5 statement under subsection (1), (3), or (4) unless it received or
6 expended an amount in excess of \$1,000.00. If the committee
7 receives or expends an amount in excess of \$1,000.00 during a
8 period covered by a filing, the committee is then subject to the
9 campaign **STATEMENT** filing requirements under this act.

10 (7) A committee, candidate, treasurer, or other individual
11 designated as responsible for the committee's record keeping,
12 report preparation, or report filing who fails to file a statement
13 as required by this section shall pay a late filing fee. If the
14 committee has raised \$10,000.00 or less during the previous 2
15 years, the late filing fee is \$25.00 for each business day the
16 statement remains unfiled, but not to exceed \$500.00. If the
17 committee has raised more than \$10,000.00 during the previous 2
18 years, the late filing fee must not exceed \$1,000.00, determined as
19 follows:

20 (a) Twenty-five dollars for each business day the report
21 remains unfiled.

22 (b) An additional \$25.00 for each business day after the first
23 3 business days the report remains unfiled.

24 (c) An additional \$50.00 for each business day after the first
25 10 business days the report remains unfiled.

26 (8) If a candidate, treasurer, or other individual designated
27 as responsible for the committee's record keeping, report

1 preparation, or report filing fails to file 2 statements required
2 by this section or section 35 and both of the statements remain
3 unfiled for more than 30 days, that candidate, treasurer, or other
4 designated individual is guilty of a misdemeanor punishable by a
5 fine of not more than \$1,000.00 or imprisonment for not more than
6 90 days, or both.

7 (9) If a candidate is found guilty of a violation of this
8 section, the circuit court for that county, on application by the
9 attorney general or the prosecuting attorney of that county, may
10 prohibit that candidate from assuming the duties of a public office
11 or from receiving compensation from public funds, or both.

12 (10) If a candidate, treasurer, or other individual designated
13 as responsible for a committee's record keeping, report
14 preparation, or report filing knowingly files an incomplete or
15 inaccurate statement or report required by this section, that
16 individual is subject to a civil fine of not more than \$1,000.00.

17 (11) If a candidate, treasurer, or other individual designated
18 as responsible for a committee's record keeping, report
19 preparation, or report filing knowingly omits or underreports
20 individual contributions or individual expenditures required to be
21 disclosed by this act, that individual is subject to a civil fine
22 of not more than \$1,000.00 or the amount of the contributions and
23 expenditures omitted or underreported, whichever is greater.

24 (12) If a candidate committee's account has a balance of
25 \$20,000.00 or more and a candidate, treasurer, or other individual
26 designated as responsible for that committee's record keeping,
27 report preparation, or report filing fails to file campaign

1 statements required under this act for 2 consecutive years, that
2 candidate, treasurer, or other individual is guilty of a felony
3 punishable by imprisonment for not more than 3 years or a fine of
4 not more than \$5,000.00, or both. Any money in a candidate
5 committee account described in this subsection is subject to
6 seizure by, and forfeiture to, this state as provided in this
7 section.

8 (13) Not more than 5 business days after seizure of money
9 under subsection (12), the secretary of state shall deliver
10 personally or by registered mail to the last known address of the
11 candidate from whom the seizure was made an inventory statement of
12 the money seized. The inventory statement must also contain notice
13 to the effect that unless demand for hearing as provided in this
14 section is made within 10 business days, the money is forfeited to
15 this state. Within 10 business days after the date of service of
16 the notice, the candidate may by registered mail, facsimile
17 transmission, or personal service file with the secretary of state
18 a demand for a hearing before the secretary of state or a person
19 designated by the secretary of state for a determination as to
20 whether the money was lawfully subject to seizure and forfeiture.
21 The candidate is entitled to appear before the secretary of state
22 or a person designated by the secretary of state, to be represented
23 by counsel, and to present testimony and argument. Upon receipt of
24 a request for hearing, the secretary of state or a person
25 designated by the secretary of state shall hold the hearing within
26 15 business days. The hearing is not a contested case proceeding
27 and is not subject to the administrative procedures act of 1969,

1 1969 PA 306, MCL 24.201 to 24.328. After the hearing, the secretary
2 of state or a person designated by the secretary of state shall
3 render a decision in writing within 10 business days of the hearing
4 and, by order, shall either declare the money subject to seizure
5 and forfeiture or declare the money returnable to the candidate.
6 If, within 10 business days after the date of service of the
7 inventory statement, the candidate does not file with the secretary
8 of state a demand for a hearing before the secretary of state or a
9 person designated by the secretary of state, the money seized is
10 forfeited to this state by operation of law. If, after a hearing
11 before the secretary of state or a person designated by the
12 secretary of state, the secretary of state or a person designated
13 by the secretary of state determines that the money is lawfully
14 subject to seizure and forfeiture and the candidate does not appeal
15 to the circuit court of the county in which the seizure was made
16 within the time prescribed in this section, the money seized is
17 forfeited to this state by operation of law. If a candidate is
18 aggrieved by the decision of the secretary of state or a person
19 designated by the secretary of state, that candidate may appeal to
20 the circuit court of the county where the seizure was made to
21 obtain a judicial determination of the lawfulness of the seizure
22 and forfeiture. The action must be commenced within 20 days after
23 notice of a determination by the secretary of state or a person
24 designated by the secretary of state is sent to the candidate. The
25 court shall hear the action and determine the issues of fact and
26 law involved in accordance with rules of practice and procedure as
27 in other in rem proceedings.

1 Sec. 34. (1) A ballot question committee shall file a campaign
2 statement as required by this act according to the following
3 schedule:

4 (a) ~~A-EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION (C), A~~
5 preelection campaign statement, the closing date of which ~~shall be~~
6 **IS** the ~~sixteenth-TWENTIETH~~ day **OF THE MONTH** before the election,
7 ~~shall-MUST~~ not be filed later than the ~~eleventh-TWENTY-FIFTH~~ day **OF**
8 **THE MONTH** before the election.

9 (b) ~~A-EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION (C), A~~
10 postelection campaign statement, the closing date of which ~~shall be~~
11 **IS** the twentieth day ~~following-OF THE MONTH OF~~ the election, ~~shall~~
12 **MUST** not be filed later than the ~~thirtieth-TWENTY-FIFTH~~ day
13 ~~following-OF THE MONTH OF~~ an election. If all liabilities of the
14 committee are paid before the closing date and additional
15 contributions are not expected, the campaign statement may be filed
16 at any time after the election, but not later than the ~~thirtieth~~
17 **TWENTY-FIFTH** day ~~following-OF THE MONTH OF~~ the election.

18 (c) **FOR AN ELECTION OCCURRING IN CONJUNCTION WITH A**
19 **PRESIDENTIAL PRIMARY ELECTION, OR FOR A SPECIAL ELECTION HELD ON A**
20 **DATE OTHER THAN A REGULAR ELECTION DATE PROVIDED IN SECTION 641 OF**
21 **THE MICHIGAN ELECTION LAW, 1954 PA 116, MCL 168.641, A PREELECTION**
22 **STATEMENT MUST BE FILED NOT LATER THAN THE ELEVENTH DAY BEFORE THE**
23 **ELECTION, AND THE CLOSING DATE FOR THE STATEMENT IS THE SIXTEENTH**
24 **DAY BEFORE THE ELECTION. A POSTELECTION CAMPAIGN STATEMENT UNDER**
25 **THIS SUBDIVISION MUST BE FILED NOT LATER THAN THE TWENTY-FIFTH DAY**
26 **FOLLOWING THE ELECTION, AND THE CLOSING DATE FOR THE STATEMENT IS**
27 **THE TWENTIETH DAY FOLLOWING THE ELECTION. IF ALL LIABILITIES OF THE**

1 COMMITTEE ARE PAID BEFORE THE CLOSING DATE AND ADDITIONAL
2 CONTRIBUTIONS ARE NOT EXPECTED, THE CAMPAIGN STATEMENT MAY BE FILED
3 AT ANY TIME AFTER THE ELECTION, BUT NOT LATER THAN THE TWENTY-FIFTH
4 DAY FOLLOWING THE ELECTION.

5 (D) ~~(e)~~—Campaign statements not later than the following
6 dates every year:

7 ~~(i) February 15 with a closing date of February 10 of that~~
8 ~~year.~~

9 (i) ~~(ii)~~—April 25 with a closing date of April 20 of that
10 year.

11 (ii) ~~(iii)~~—July 25 with a closing date of July 20 of that
12 year.

13 (E) ~~(d)~~—In every odd numbered year, a campaign statement not
14 later than October 25 with a closing date of October 20 of that
15 year.

16 (2) A ballot question committee supporting or opposing a
17 statewide ballot question shall file a campaign statement, of which
18 the closing date ~~shall be~~ **IS** the twenty-eighth day after the filing
19 of the petition form, not later than 35 days after the petition
20 form is filed under section 483a of the Michigan election law, 1954
21 PA 116, MCL 168.483a.

22 (3) If a ballot question committee supporting or opposing a
23 statewide ballot question fails to file a preelection statement
24 under this section, that committee or its treasurer shall pay a
25 late filing fee for each business day the statement remains not
26 filed in violation of this section, not to exceed \$1,000.00,
27 pursuant to the following schedule:

1 (a) First day--\$25.00.

2 (b) Second day--\$50.00.

3 (c) Third day--\$75.00.

4 (d) Fourth day and for each subsequent day that the statement
5 remains unfiled--\$100.00.

6 (4) If a treasurer or other individual designated as
7 responsible for the record keeping, report preparation, or report
8 filing of a ballot question committee supporting or opposing a
9 statewide ballot question fails to file a statement, other than a
10 preelection statement, under this section, that committee,
11 treasurer, or other designated individual shall pay a late filing
12 fee. If the committee has raised \$10,000.00 or less during the
13 previous 2 years, the late filing fee ~~shall be~~ **IS** \$25.00 for each
14 business day the campaign statement remains unfiled, but not to
15 exceed \$1,000.00. If the committee has raised more than \$10,000.00
16 during the previous 2 years, the late filing fee ~~shall be~~ **IS** \$50.00
17 for each business day the campaign statement remains unfiled, but
18 not to exceed \$2,000.00.

19 (5) If a treasurer or other individual designated as
20 responsible for the record keeping, report preparation, or report
21 filing of a ballot question committee supporting or opposing other
22 than a statewide ballot question fails to file a statement under
23 this section, that committee, treasurer, or other designated
24 individual shall pay a late filing fee. If the committee has raised
25 \$10,000.00 or less during the previous 2 years, the late filing fee
26 ~~shall be~~ **IS** \$25.00 for each business day the campaign statement
27 remains unfiled, but not to exceed \$1,000.00. If the committee has

1 raised more than \$10,000.00 during the previous 2 years, the late
2 filing fee shall be ~~IS~~ \$50.00 for each business day the campaign
3 statement remains unfiled, but not to exceed \$2,000.00.

4 (6) If a treasurer or other individual designated as
5 responsible for the record keeping, report preparation, or report
6 filing of a ballot question committee fails to file a statement as
7 required by subsection (1) or (2) for more than 7 days, that
8 treasurer or other designated individual is guilty of a misdemeanor
9 ~~punishable~~ by a fine of not more than \$1,000.00 ~~or imprisonment~~
10 for not more than 90 days, or both.

11 (7) If a treasurer or other individual designated as
12 responsible for the record keeping, report preparation, or report
13 filing of a ballot question committee knowingly files an incomplete
14 or inaccurate statement or report required by this section, that
15 treasurer or other designated individual is subject to a civil fine
16 of not more than \$1,000.00 or the amount of the undisclosed
17 contribution, whichever is greater.