

the procedure set forth in the plan of merger or, if none is set forth, by the unanimous consent of the members of the limited liability company that is a constituent entity, unless the operating agreement of the limited liability company provides otherwise. If a certificate of merger has been filed by a constituent company, it shall file a certificate of abandonment within 10 days after the abandonment but not later than the effective date of the certificate of merger.

This act is ordered to take immediate effect.

Approved December 29, 1994.

Filed with Secretary of State December 29, 1994.

[No. 411]

(HB 4837)

AN ACT to amend sections 9, 44, 49, 66, 67, and 71 of Act No. 388 of the Public Acts of 1976, entitled as amended "An act to regulate political activity; to regulate campaign financing; to restrict campaign contributions and expenditures; to require campaign statements and reports; to regulate anonymous contributions; to regulate campaign advertising and literature; to provide for segregated funds for political purposes; to provide for the use of public funds for political purposes; to create certain funds; to provide for reversion, retention, or refunding of unexpended balances in certain funds; to require other statements and reports; to regulate acceptance of certain gifts, payments, and reimbursements; to prescribe the powers and duties of certain state departments and state and local officials and employees; to provide appropriations; to prescribe penalties and provide remedies; and to repeal certain acts and parts of acts," section 44 as amended by Act No. 95 of the Public Acts of 1989 and sections 66 and 67 as amended by Act No. 262 of the Public Acts of 1993, being sections 169.209, 169.244, 169.249, 169.266, 169.267, and 169.271 of the Michigan Compiled Laws; and to add section 21a.

The People of the State of Michigan enact:

Sections amended and added; Michigan campaign finance act.

Section 1. Sections 9, 44, 49, 66, 67, and 71 of Act No. 388 of the Public Acts of 1976, section 44 as amended by Act No. 95 of the Public Acts of 1989 and sections 66 and 67 as amended by Act No. 262 of the Public Acts of 1993, being sections 169.209, 169.244, 169.249, 169.266, 169.267, and 169.271 of the Michigan Compiled Laws, are amended and section 21a is added to read as follows:

169.209 Definitions; I to L. [M.S.A. 4.1703(9)]

Sec. 9. (1) "Incidental expense" means an expenditure that is an ordinary and necessary expense, as described in section 162 of the internal revenue code of 1986, 26 U.S.C. 162, paid or incurred in carrying out the business of an elective office. Incidental expense includes, but is not limited to, any of the following:

- (a) A disbursement necessary to assist, serve, or communicate with a constituent.
- (b) A disbursement for equipment, furnishings, or supplies for the office of the public official.

(c) A disbursement for a district office if the district office is not used for campaign-related activity.

(d) A disbursement for the public official or his or her staff, or both, to attend a conference, meeting, reception, or other similar event.

(e) A disbursement to maintain a publicly owned residence or a temporary residence at the seat of government.

(f) An unreimbursed disbursement for travel, lodging, meals, or other expenses incurred by the public official, a member of the public official's immediate family, or a member of the public official's staff in carrying out the business of the elective office.

(g) A donation to a tax-exempt charitable organization, including the purchase of tickets to charitable or civic events.

(h) A disbursement to a ballot question committee.

(i) A purchase of tickets for use by that public official and members of his or her immediate family and staff to a fund-raising event sponsored by a candidate committee, independent committee, political party committee, or a political committee that does not exceed \$100.00 per committee in any calendar year.

(j) A disbursement for an educational course or seminar that maintains or improves skills employed by the public official in carrying out the business of the elective office.

(k) A purchase of advertisements in testimonials, program books, souvenir books, or other publications if the advertisement does not support or oppose the nomination or election of a candidate.

(l) A disbursement for consultation, research, polling, and photographic services not related to a campaign.

(m) A fee paid to a fraternal, veteran, or other service organization.

(n) A payment of a tax liability incurred as a result of authorized transactions by the candidate committee of the public official.

(o) A fee for accounting, professional, or administrative services for the candidate committee of the public official.

(p) A debt or obligation incurred by the candidate committee of a public official for a disbursement authorized by subdivisions (a) to (o), if the debt or obligation was reported in the candidate committee report filed for the year in which the debt or obligation arose.

(2) "Independent expenditure" means an expenditure by a person if the expenditure is not made at the direction of, or under the control of, another person and if the expenditure is not a contribution to a committee.

(3) "In-kind contribution or expenditure" means a contribution or expenditure other than money.

(4) "Loan" means a transfer of money, property, or anything of ascertainable monetary value in exchange for an obligation, conditional or not, to repay in whole or part.

169.221a Expenditure for incidental expense by candidate committee. [M.S.A. 4.1703(21a)]

Sec. 21a. A candidate committee of a candidate who is elected or appointed to an elective office may make an expenditure for an incidental expense for the elective office to which that candidate was elected or appointed. Except as otherwise specifically provided in this act, an expenditure for an incidental expense by a candidate committee pursuant to this section is considered an expenditure under this act.

169.244 Prohibited contributions or expenditures; delivery or return of contribution; joint fund-raiser; violation as misdemeanor; penalty. [M.S.A. 4.1703(44)]

Sec. 44. (1) A contribution shall not be made by a person to another person with the agreement or arrangement that the person receiving the contribution will then transfer that contribution to a particular candidate committee.

(2) A candidate committee shall not make a contribution to or an independent expenditure in behalf of another candidate committee. This subsection does not prohibit the purchase of tickets to another candidate committee's fund-raising event that does not exceed \$100.00 per candidate committee in any calendar year.

(3) An individual, other than a committee treasurer or the individual designated as responsible for the record keeping, report preparation, or report filing for a committee, who obtains possession of a committee's contribution for the purpose of delivering the contribution to another committee shall deliver the contribution to that committee, that committee's treasurer, or that committee's agent, or return the contribution to the payor, not later than 10 business days after obtaining possession of the contribution.

(4) Two or more persons, other than individuals, may hold a joint fund-raiser if the receipts and expenses of the fund-raiser are shared proportionately.

(5) A person who knowingly violates this section is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00, or imprisonment for not more than 90 days, or both.

169.249 Officeholder expense fund; establishment; use; contribution limitations; recording and reporting contributions and expenditures; prohibitions beginning January 1, 1995; transfer of assets; violation; penalty. [M.S.A. 4.1703(49)]

Sec. 49. (1) Subject to subsection (3), an elected public official may establish an officeholder expense fund. The fund may be used for expenses incidental to the person's office. The fund shall not be used to make contributions and expenditures to further the nomination or election of that public official.

(2) The contributions and expenditures made pursuant to subsection (1) are not exempt from the contribution limitations of this act, but the contributions and expenditures shall be recorded and shall be reported on forms provided by the secretary of state and filed not later than January 31 of each year. The report shall have a closing date of January 1 of that year.

(3) Beginning January 1, 1995, an elected public official shall not establish an officeholder expense fund. An elected public official who has an officeholder expense fund on January 1, 1995, shall not accept contributions to the officeholder expense fund on or after that date unless the contribution is necessary to pay a debt incurred by the officeholder before January 1, 1995. On or before January 1, 1996, unexpended funds in an officeholder expense fund shall be disbursed in 1 of the following ways:

(a) Given to a tax-exempt charitable organization.

(b) Returned to the contributors of the officeholder expense fund.

(c) Given to a political party committee if the officeholder expense fund does not contain funds received from an entity that is prohibited from making contributions and expenditures under section 54.

(4) Notwithstanding subsection (3), assets held by the officeholder expense fund may be transferred to a candidate committee of the elected public official who established the officeholder expense fund if the officeholder expense fund does not contain funds received from an entity that is prohibited from making contributions and expenditures under section 54.

(5) A person who knowingly violates this section is guilty of a misdemeanor, punishable by a fine of not more than \$1,000.00 or imprisonment for not more than 90 days, or both.

169.266 Application of funds against qualified campaign expenditures; "qualified campaign expenditure" defined; separate account for funds received; payment of qualified expenditures; disposition of unexpended balance; use of payment for expenditures in subsequent election prohibited; violation; penalty. [M.S.A. 4.1703(66)]

Sec. 66. (1) A candidate may only apply the funds received under this act from the state campaign fund against qualified campaign expenditures.

(2) As used in this section, "qualified campaign expenditure" means an expenditure for services, materials, facilities, or other things of value by the candidate committee to further the candidate's nomination or election to office during the year in which the primary or general election in which the candidate seeks nomination or election is held. Qualified campaign expenditure does not include any of the following:

(a) An expenditure in violation of any law of the United States or of this state.

(b) A payment made to the candidate or a relative within the third degree of consanguinity of the candidate, or to a business with which the candidate or the relative is associated.

(c) A payment to the extent clearly in excess of the fair market value of services, materials, facilities, or other things of value received in exchange.

(d) That portion of any salary or wage to an individual in excess of \$5,000.00 per month.

(e) Payment from petty cash.

(f) Gifts, except brochures, buttons, signs, and other printed campaign material.

(g) Payment to a defense fund.

(h) An expenditure by a candidate committee for an incidental expense under section 21a.

(3) A candidate shall keep the funds received under this act from the state campaign fund in a separate account. The candidate's qualified expenditures may be paid from the separate account unless the account does not have a balance. An unexpended balance in the separate account shall be refunded and credited to the general fund within 60 days after the election for which the funds were received. Payment received from the state campaign fund for expenditures in 1 election shall not be used for expenditures in a subsequent election.

(4) A person who knowingly violates this section is guilty of a felony punishable, if the person is an individual, by a fine of not more than \$2,000.00, or imprisonment for not more than 3 years, or both, or, if the person not an individual, by a fine of not more than \$10,000.00.

169.267 Limitations on expenditures; exceptions; violation as misdemeanor; penalty; prohibitions. [M.S.A. 4.1703(67)]

Sec. 67. (1) Expenditures made by a candidate committee to further the nomination or election of a candidate may not exceed \$2,000,000.00 in the aggregate for 1 election. An expenditure by a candidate committee for an incidental expense under section 21a is not considered an expenditure for the purposes of the expenditure limitations set forth in this subsection.

(2) An expenditure by a candidate committee to purchase space in a newspaper or other periodical or time on radio or television for the purpose of responding to an editorial in the same newspaper or periodical or on the same station or channel that was unfavorable to the committee's candidate or that endorsed the candidate's opponent is not considered an expenditure for the purposes of the expenditure limitations set forth in subsection (1). This subsection only applies to 1 response made to a particular editorial, unfavorable report, or endorsement of an opponent and does not apply unless the candidate is refused free space or time in which to answer.

(3) A person who knowingly violates subsection (1) is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00, or imprisonment for not more than 90 days, or both.

(4) If a person who is subject to this section is found guilty, the circuit court, on application by the attorney general, may prohibit that person from assuming the duties of a public office or from receiving compensation from public funds, or both.

**169.271 Prohibited contributions; violation; penalty.
[M.S.A. 4.1703(71)]**

Sec. 71. (1) A contribution shall not be made by a person to another person with the agreement or arrangement that the person receiving the contribution will then transfer that contribution to a particular candidate committee.

(2) A candidate committee shall not make a contribution to another candidate committee. This subsection does not prohibit the purchase of tickets to another candidate committee's fund-raising event that does not exceed \$100.00 per candidate committee in any calendar year. A person who knowingly violates this section is guilty of a misdemeanor and shall be punishable by a fine of not more than \$1,000.00, or imprisonment for not more than 90 days, or both.

This act is ordered to take immediate effect.

Approved December 29, 1994.

Filed with Secretary of State December 29, 1994.

[No. 412]

(SB 1319)

AN ACT to amend section 8 of Act No. 472 of the Public Acts of 1978, entitled "An act to regulate political activity; to regulate lobbyists, lobbyist agents, and lobbying activities; to require registration of lobbyists and lobbyist agents; to require the filing of reports; to prescribe the powers and duties of the department of state; to prescribe penalties; and to repeal certain acts and parts of acts," as amended by Act No. 189 of the Public Acts of 1992, being section 4.418 of the Michigan Compiled Laws.