

REGULATORY IMPACT STATEMENT and COST-BENEFIT ANALYSIS (RIS)

AGENCY INFORMATION:

Department name:

State

Bureau name:

Elections & Campaign Finance

Name of person filling out RIS:

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RULE SET INFORMATION:

ARD assigned rule set number:

2026-11 ST

Title of proposed rule set:

Campaign Finance Complaints and Investigations

COMPARISON OF RULE(S) TO FEDERAL/STATE/ASSOCIATION STANDARDS

1. Compare the proposed rules to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.

There are no parallel federal rules or standards.

A. Are these rules required by state law or federal mandate?

Yes. MCL 169.215 provides: The secretary of state shall do all of the following: (e) Promulgate rules and issue declaratory rulings to implement this act in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

B. If these rules exceed a federal standard, please identify the federal standard or citation, describe why it is necessary that the proposed rules exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

The rules do not exceed a federal standard.

2. Compare the proposed rules to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.

Wisconsin has a similar complaint process, in which staff can initially dismiss a complaint (if there is no jurisdiction in Wisconsin; if the complaint is frivolous, illegible, or unsigned, etc., in Michigan); staff determines whether a violation may have occurred (reasonable suspicion in Wisconsin; may be reason to believe a violation may have occurred in Michigan); and attempts to resolve the matter (settlement negotiation in Wisconsin WIS. STAT. § 19.49(1)(b); conciliation in Michigan). Minnesota similarly has two stages of review: a prima facie decision and a probable cause determination. This is similar to the process in Michigan, in which there is the possibility of a summary dismissal (if the complaint is frivolous, illegible, unsigned, etc.) or a later dismissal (if, following a preliminary review, it determines there is no reason to believe an allegation is true). Minnesota's board may also enter into a conciliation agreement with the respondent.

A. If the rules exceed standards in those states, please explain why and specify the costs and benefits arising out of the deviation.

The rules do not exceed the standards in other states.

3. Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rules.

The rules do not conflict with or duplicate any laws, rules, or other legal requirements. The proposed rules may overlap with existing state, federal, and local laws to the extent that there are existing state, federal, and local laws that also address campaign finance. However, to the extent that the proposed rules overlap, they are coordinated to avoid any actual duplication, as discussed in answer 3(A). The proposed rules would codify existing manuals and appendices from the Secretary of State.

A. Explain how the rules have been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.

The proposed rules are coordinated with state law in that they seek to mirror the definitions and provisions in the Michigan Campaign Finance Act, 1976 PA 388, MCL 169.201 to 169.282, and existing instructions from the agency. No other state laws are applicable to the same activity or subject matter. The proposed rules are not coordinated with federal law even though there are federal campaign finance laws because the federal laws, rules, or other legal requirements apply to different filers: federal filers are governed by federal law and state law governs state filers. As such, no federal laws, rules, or other legal requirements completely overlap with or duplicate the proposed rules. No federal, state, or local laws, rules, or other legal requirements conflict with the proposed rules.

PURPOSE AND OBJECTIVES OF THE RULE(S)

4. Identify the behavior and frequency of behavior that the proposed rules are designed to alter.

The rules generally will not alter the behavior or frequency of behavior for filing officials, staff, or filers. However, they will codify existing instructions in the campaign finance complaint manuals. The rules would codify a campaign finance determination regarding sanctions for submitting a false certificate. That issue was an issue of first impression when it was considered in March 2023 and has not occurred in the intervening three years, so it is unlikely the rules would alter the behavior or frequency of behavior, but it is possible. Additionally, the rules will provide guidance regarding the complaints portal being created by the Department. Use of the portal will be a change in behavior for filers and the Department, but that change is not initiated by and is separate from the proposed rules.

A. Estimate the change in the frequency of the targeted behavior expected from the proposed rules.

It is not anticipated there would be a change given that campaign finance violations are and will continue to be regulated by the Michigan Campaign Finance Act.

B. Describe the difference between current behavior/practice and desired behavior/practice.

There would be no difference between current behavior/practice and desired behavior/practice. However, to the extent that behavior/practice is currently guided by manuals and appendices, going forward they would be guided by the Department's administrative rules.

C. What is the desired outcome?

The desired outcome is greater understanding and knowledge of existing behavior/practice.

5. Identify the harm resulting from the behavior that the proposed rules are designed to alter and the likelihood that the harm will occur in the absence of the rule.

Currently, campaign finance rules are outdated and may be confusing to filers, individuals seeking to file complaints, and Department staff. Updated rules are intended to streamline the complaint and investigation process, and to provide clearer and more timely resolutions to complaints.

A. What is the rationale for changing the rules instead of leaving them as currently written?

The existing rules range from 25-46 years old and do not account for statutory changes in the Michigan Campaign Finance Act, as well as case law and changes in interpretation over time. The proposed rules intend to modernize the rules so they mirror current practice.

6. Describe how the proposed rules protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.

The proposed rules would reflect current practice and provide an easier to understand and navigate complaint process.

7. Describe any rules in the affected rule set that are obsolete or unnecessary and can be rescinded.

There are no obsolete or unnecessary rules in the rule set that can be rescinded because these rules create a new rule set and there is no existing rule set.

FISCAL IMPACT ON THE AGENCY

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e., hiring additional staff, higher contract costs, programming costs, changes in reimbursements rates, etc. over and above what is currently expended for that function. It does not include more intangible costs for benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

8. Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings for the agency promulgating the rule).

It is not expected that the promulgation of rules will have a fiscal impact on the agency promulgating the rules.

9. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rules.

No agency appropriation has been made, and no funding source has been provided, as it is not anticipated that the Department of State will have any expenditures associated with the proposed rules.

10. Describe how the proposed rules are necessary and suitable to accomplish their purpose, in relationship to the burden(s) the rules place on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.

The proposed rules will largely codify current practice and are not expected to place any additional fiscal or administrative burdens on individuals.

A. Despite the identified burden(s), identify how the requirements in the rules are still needed and reasonable compared to the burdens.

There are no identified burdens.

IMPACT ON OTHER STATE OR LOCAL GOVERNMENTAL UNITS

11. Estimate any increase or decrease in revenues to other state or local governmental units (i.e., cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions for other state or local governmental units (i.e., cities, counties, school districts) as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.

There are no estimated increases or decreases in revenue to other state or local governmental units. There are no estimated increases or reductions in cost to other state or local governmental units.

12. Discuss any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by the rules.

The proposed rules do not change any duty or responsibility imposed upon any city, county, town, village, or school district.

A. Describe any actions that governmental units must take to be in compliance with the rules. This section should include items such as record keeping and reporting requirements or changing operational practices.

It is not anticipated that governmental units would need to take any additional actions under the proposed rules.

13. Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rules.

An appropriation has not been made because additional expenditures associated with the rules are not anticipated.

RURAL IMPACT

14. In general, what impact will the rules have on rural areas?

The proposed rules are not expected to impact rural areas.

A. Describe the types of public or private interests in rural areas that will be affected by the rules.

The proposed rules are not expected to have any impact on public or private interests in rural areas.

ENVIRONMENTAL IMPACT

15. Do the proposed rules have any impact on the environment? If yes, please explain.

The proposed rules will not have an impact on the environment.

SMALL BUSINESS IMPACT STATEMENT

16. Describe whether and how the agency considered exempting small businesses from the proposed rules.

Small businesses will not be governed or impacted by the proposed rules so the agency did not consider small businesses.

17. If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rules on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rules upon small businesses as described below (in accordance with MCL 24.240(1)(a-d)), or (b) the reasons such a reduction was not lawful or feasible.

The proposed rules do not apply to small businesses.

A. Identify and estimate the number of small businesses affected by the proposed rules and the probable effect on small businesses.

The proposed rules do not apply to small businesses.

B. Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rules after projecting the required reporting, record-keeping, and other administrative costs.

The proposed rules do not apply to small businesses and will not have an impact on their reporting requirements.

C. Describe how the agency consolidated or simplified the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements.

The agency did not consolidate or simplify the compliance and reporting requirements for small businesses as the proposed rules do not apply to small businesses.

D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.

The proposed rules do not apply to performance, design, or operation standards in relation to small businesses.

18. Identify any disproportionate impact the proposed rules may have on small businesses because of their size or geographic location.

The proposed rules will have no impact on small businesses.

19. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rules.

There are no estimated costs for small businesses as the proposed rules do not apply to small businesses.

20. Analyze the costs of compliance for all small businesses affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.

The proposed rule set will have no impact on small businesses and require no compliance from small businesses.

21. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.

The proposed rule set will have no impact on small businesses and require no legal, consulting, or accounting services on behalf of small businesses.

22. Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.

There are no estimated costs for small businesses as the proposed rules do not apply to small businesses.

23. Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

There are no estimated costs to the agency for administration or enforcement against small businesses as the proposed rules do not apply to small businesses.

24. Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

The proposed rules do not apply to small businesses so there will be no impact on the standards of compliance.

25. Describe whether and how the agency has involved small businesses in the development of the proposed rules.

The agency has not involved small businesses in the development because the proposed rules do not apply to small businesses.

A. If small businesses were involved in the development of the rules, please identify the business(es).

No small businesses were involved because the proposed rules do not apply to small businesses.

COST-BENEFIT ANALYSIS OF RULES (INDEPENDENT OF STATUTORY IMPACT)

26. Estimate the actual statewide compliance costs of the rule amendments on businesses or groups.

It is not anticipated that there will be any statewide compliance costs.

A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rules.

The new rules will update the current rules regarding campaign financing, most of which have not been amended since 1979. Complainants, respondents, and Michigan Department of State (MDOS) regulatory staff will be affected by and benefit from the revisions, as they account for intervening updates to the MCFA and more efficient complaint processing procedures. Additionally, the rules will codify questions that have arisen and been dealt with informally in the Department's manuals, appendices, declaratory rulings, and interpretive statements. No businesses or groups are anticipated to bear a cost associated with the rules.

B. What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e., new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

There will be no costs imposed as a result of the proposed rules. It is anticipated that the rules can be followed with the current funding appropriated to county clerks and MDOS staff.

27. Estimate the actual statewide compliance costs of the proposed rules on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.

There will be no additional statewide compliance cost. The proposed rules largely codify current practice and would be incorporated into existing training. They are not anticipated to impose any additional training costs, and no additional costs are anticipated.

A. How many and what category of individuals will be affected by the rules?

Complainants and respondents will be affected minimally by the rules, as the rules codify current practice but revise some terminology. The Department receives approximately 150-500 complaints annually, for a total of approximately 300-1000 complainants and respondents. Approximately five MDOS regulatory staff members process complaints and will also be affected.

B. What qualitative and quantitative impact do the proposed changes in rules have on these individuals?

Complainants, respondents, and MDOS staff rely on the rules to understand aspects of the campaign finance complaint process that are not clearly defined in the MCFA. It is not anticipated that the rules would have a quantitative impact.

28. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

It is not anticipated that there would be any cost reductions to businesses, individuals, groups of individuals, or governmental as a result of the proposed rules.

29. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rules. Please provide both quantitative and qualitative information, as well as any assumptions.

The primary and direct benefits of the proposed rules are qualitative and are to provide clarity and direction on the rules regarding campaign finance complaints and investigations. A secondary or indirect benefit is both qualitative and quantitative: there will be less confusion about the applicability of the MCFA to a certain fact pattern, and fewer individuals will be confused about the stages of the campaign finance complaint process. The assumption being made is that better clarity and direction improves quality and that if there is greater understanding there will be fewer requests for guidance.

30. Explain how the proposed rules will impact business growth and job creation (or elimination) in Michigan.

The proposed rules will not impact business growth and job creation (or elimination) in Michigan.

31. Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

It is not anticipated that individuals or businesses will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

32. Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of the proposed rules and a cost-benefit analysis of the proposed rules.

The agency relied upon the Department of State's current practice and on agency staff and its regulatory experience to formulate estimates and assumptions and determine the need for the proposed rules. The agency also reviewed administrative rules and practices for similarly situated states, specifically Wisconsin and Minnesota.

<https://ethics.wi.gov/Resources/FlowchartComplaintProcess.pdf>

<https://ethics.wi.gov/Resources/EthicsCommissionComplaintProcedures.pdf>

Minnesota Statute 10A.022 VIOLATIONS AND ENFORCEMENT

<https://www.revisor.mn.gov/statutes/cite/10A.022#stat.10A.022.5>

A. How were estimates made, and what assumptions were made? Include internal and external sources, published reports, information provided by associations or organizations, etc., that demonstrate a need for the proposed rules.

The agency relied upon agency staff and its regulatory and administrative experience to determine the impact of the proposed rules. The agency also sent the rules to the Michigan Association of County Clerks and relied on their feedback and expertise. Because the proposed rules largely codify current practice, the agency can reasonably assume their implementation will not cause any major change to the processes associated with campaign finance reporting. The agency assumes that having the administrative rules reflect current law and practice will be beneficial and eliminate any confusion that currently exists.

ALTERNATIVE TO REGULATION

33. Identify any reasonable alternatives to the proposed rules that would achieve the same or similar goals.

The reasonable alternative would be to amend the Michigan Campaign Finance Act. However, the Department cannot amend the law, so this is not a reasonable alternative that is within the Department's control.

A. Please include any statutory amendments that may be necessary to achieve such alternatives.

The rules are not inconsistent with the MCFA but incorporating them into the MCFA would require amendments to MCL 169.215 and 169.216.

34. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

There are no private market-based mechanisms available to address the needs covered by the proposed rules. The agency is not aware of a private market-based system, as opposed to a state regulatory body, for these purposes that is utilized in other states.

- 35. Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rules. This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.**

Due to the nature of regulating campaign finance, no significant alternatives to reasonable regulation were considered during the development of the proposed rules. The proposed rules are intended to codify the current legal requirements and practices.

ADDITIONAL INFORMATION

- 36. As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.**

The rules explicitly inform persons of requirements and methods of compliance.