



STATE OF MICHIGAN  
RUTH JOHNSON, SECRETARY OF STATE  
DEPARTMENT OF STATE  
LANSING

**MEMORANDUM**

**DATE:** July 13, 2012  
**TO:** Committees Registered on the State Level  
**FROM:** Michigan Department of State, Bureau of Elections  
**SUBJECT:** **Legislative Changes to the Michigan Campaign Finance Act (MCFA)**

**Several bills recently signed into law by the Governor have made significant changes to the Michigan Campaign Finance Act (MCFA).**

**P.A. 31 of 2012 (House Bill 5086)**  
**P.A. 273 of 2012 (House Bill 5059)**  
**P.A. 275 of 2012 (House Bill 5058)**  
**P.A. 277 of 2012 (Senate Bill 824)**

**Please read this memo carefully to be fully informed of the changes.**

The changes to the MCFA in these new public acts have immediate effect and may affect committee filings and other disclosure requirements this year. The changes impact all committee types; Candidate Committees, Political and Independent Committees, Ballot Question Committees and Political Party Committees on both the State and Local level.

The Bureau of Elections is updating the Department's web site and is working to implement the changes as provided in the new public acts for 2012 in the MERTS software and paper forms. Committees will receive additional information for complying with the new public acts in the coming weeks.

Covered in this memorandum:

- **Late Contribution Reporting and Fees at the State and Local Level**
- **Public Resources Use Prohibition – Section 57 Expanded**
- **Candidate Committees at the State and Local Level**
- **Political Committees and Independent Committees at the State Level**
- **Political Party Committees at the State Level**
- **Ballot Question Committees at the State and Local Level**
- **Enforcement and Disclosure Changes at the State Level**

### **Late Contribution Reporting and Fees at the State and Local Level**

- The definition of "late contribution" has changed:
  - Candidate Committees: "late contribution" means contributions from the same contributor with a cumulative total of \$500.00 or more received after the closing date of the last campaign statement required to be filed before an election.
  - PACs, Ballot Question Committees and Political Party Committees: "late contribution" means contributions from the same contributor with a cumulative total of \$2,500.00 or more received after the closing date of the last campaign statement to be filed before an election.
- Late Contribution late filing fees cannot exceed the lesser of:
  - (a) the total amount of the contributions omitted from the late contribution reports or
  - (b) \$2,000.00.
- A committee, other than a candidate committee, must file a report of a late contribution for an election during which the committee made expenditures for the purpose of influencing the nomination or election of a candidate or for the qualification, passage, or defeat of a ballot question after the closing date of the last campaign statement required to be filed before an election. This provision is retroactive to January 1, 2010.
- The state, by appropriation, or a county must reimburse or waive any late contribution late filing fee paid or assessed if the following apply:
  - The fee as assessed between January 1, 2010 and July 3, 2012, the effective date of the amendment.
  - The committee is a PAC, Ballot Question or Political Party Committee.
  - The committee has filed all other required campaign statements in a timely manner.

**NOTE:** While this provision has immediate effect, at this time, the legislature has not appropriated the funds to issue the refunds assessed by the Bureau of Elections. Upon appropriation, specific instructions will be given to all state level committees that may be eligible for a refund. The state appropriation does not extend to the fees assessed by a county. County Clerks will establish individual procedures for implementing this provision.

(P.A. 277 of 2012)

### **Public Resources Use Prohibition – Section 57 Expanded**

- A public body is prohibited from using public resources to establish or administer a payroll deduction plan that would collect or deliver contributions to or make expenditures for a committee. A public body may not be reimbursed after the expense is made or in advance of the expenditure to cure a violation. An interested person is authorized to file suit to enforce this provision in limited circumstances. (P.A. 31 of 2012)

**Candidate Committees at the State and Local Level**

- It is a felony violation punishable by imprisonment for not more than 3 years , a fine of \$5,000.00 or both if a Candidate Committee has a balance of \$20,000.00 or more and fails to file campaign statements for two or more consecutive years. Any funds in the committee account are subject to seizure by and forfeiture to the State of Michigan. (P.A. 273 of 2012)
- Candidates along with the treasurer and designated record keeper are responsible for any penalties or fees associated with knowingly filing an incomplete or inaccurate report. (P.A. 273 of 2012)
- The definition of “incidental expense” has been altered to remove the catch-all reference to the internal revenue code. (P.A. 275 of 2012)
- Candidate committee funds can only be used for legal costs incurred and specifically described in the campaign statement for the following purposes:
  - Relating to a Recall election;
  - Relating to a recount;
  - Relating to compliance with the MCFA; or
  - Tangibly benefits the nomination or election of the candidate.

Any legal costs incurred by a candidate who is elected or appointed to an elective office to defend the official in a civil or criminal action must be paid from a Legal Defense Fund as provided under PA 288 of 2008. A violation of this provision is a misdemeanor punishable by a fine of not more than \$1,000.00 or imprisonment for not more than 90 days or both. (P.A. 275 of 2012)

**Political Committees and Independent Committees at the State Level**

- A political committee or an independent committee (other than a Caucus Committee) registered on the state level must file quarterly campaign statements on the following schedule each year:

<b>Statement Type</b>	<b>Close of Books</b>	<b>Statement Due Date</b>
<b>February Quarterly</b>	February 10	February 15
<b>April Quarterly</b>	April 20	April 25
<b>July Quarterly</b>	July 20	July 25
<b>October Quarterly</b>	October 20	October 25

(P.A. 273 of 2012)

Recall Election Filings

- A committee registered with the SOS that supports or opposes the recall of a local elective officeholder files all required campaign statements with the SOS. (P.A. 277 of 2012)

Separate Segregated Fund Changes at the State and Local Level

- Communications between a separate segregated fund (established under Section 55 of the MCFA) and individuals who can be solicited for contributions to that fund are exempt from the identification requirement under Section 47 as it applies to printed campaign materials. (P.A. 277 of 2012)
- A separate segregated fund is allowed to make expenditures to other separate segregated funds. (P.A. 277 of 2012)

**Political Party Committees at the State Level Attempting to Gain Ballot Access**

**Note:** The new laws enacted do not affect the filing schedule of established Political Party Committees. Established Political Party Committees must continue to file Pre-Election and Post-Election Campaign Statements based on the activity of the committee. Committees must also continue to file the Annual Campaign Statement. These statements are waived for Committees that maintain a Reporting Waiver.

- The definition of a “committee” and the definition of a “Political Party Committee” have been extended to include a party that is attempting to qualify as a new political party under Michigan Election Law.
- A political party committee that is attempting to qualify under Michigan Election Law must file quarterly campaign statements on the following schedule:

<b>Statement Type</b>	<b>Close of Books</b>	<b>Statement Due Date</b>
<b>January Quarterly</b>	December 31	January 31
<b>April Quarterly</b>	April 20	April 25
<b>July Quarterly</b>	July 20	July 25
<b>October Quarterly</b>	October 20	October 25

A political party committee that is attempting to qualify under Michigan Election Law, must also file certain immediate disclosure reports as described below:

- 24 Hour Contribution Report
- 24 Hour Expenditure Report
- Special Election Independent Expenditure Report

(P.A. 273 of 2012)

**Ballot Question Committees at the State and Local Level**

- In addition to the pre-election, postelection and annual campaign statements, a Ballot Question Committee (BQC) registered on the state or local level must file statements as follows:
  - Even Years: February, April, and July
  - Odd Years: February, April, July and October

<b>Statement Type</b>	<b>When Required</b>	<b>Close of Books</b>	<b>Statement Due Date</b>	<b>Reporting Waiver Applies</b>	<b>Notes</b>
<b>Pre-Election</b>	When Question is on Ballot	16 days before the date of the Election	11 days before the date of the Election	YES	
<b>Post-Election</b>	When Question is on Ballot	20 days after the date of the Election	30 days after the date of the Election	YES	
<b>Annual</b>	Each Year	December 31	January 31	YES	
<b>February Quarterly</b>	Each Year	February 10	February 15	YES	Waived if Pre-Election CS is filed
<b>April Quarterly</b>	Each Year	April 20	April 25	YES	Waived if Pre-Election CS is filed
<b>July Quarterly</b>	Each Year	July 20	July 25	YES	Waived if Pre-Primary CS is filed
<b>October Quarterly</b>	Odd Year	October 20	October 25	YES	Waived if Pre-General CS is filed
<b>Petition Filed Under MCL 168.483A</b>	When Petition is filed under MCL 168.483a*	28 days following the filing date of the Petition	35 days following the filing date of the Petition	NO	State Level Committees Only

\*168.483a is a new requirement of PA 276 of 2012

- A state level BQC is no longer required to file a Qualification or Non Qualification Campaign Statement.

- A state level BQC must file a Post Petition Filing Campaign Statement. The Post Petition Filing Campaign Statement filed under MCL 168.483a closes 28 days after filing the petition form with the SOS and is due not later than 35 days after the petition form is filed with the SOS. MCL168.483a was added to the Michigan Election Law by PA 276 of 2012.
- A state level BQC that supports or opposes a non-statewide ballot question files all required campaign statements with the SOS.
- A state or local BQC that knowingly files an incomplete or inaccurate statement or report is subject to a civil fine of either \$1,000.00 or the amount of the undisclosed contribution, whichever is greater.

(P.A. 277 of 2012)

### **Enforcement and Disclosure Changes at the State Level**

- The SOS must refer a complaint to the Attorney General (AG) or begin a hearing if unable to resolve a matter using informal methods. The AG must determine whether to proceed with enforcement of a criminal penalty within 60 days after the matter was referred from the SOS. The AG is the only agency empowered to enforce the criminal provisions of the MCFA upon referral by the SOS. (P.A. 277 of 2012)
- The SOS must post on the Department's internet website individual violation complaints and conciliation agreements. (P.A. 277 of 2012)
- The SOS is no longer required to provide an update every 60 days to a complainant and alleged violator of a complaint that is still under investigation. In addition, the SOS is permitted to commence a hearing at any time. (P.A. 277 of 2012)
- Increases the civil fine penalties to equal to triple the amount of the improper contribution and expenditure, plus up to \$1,000.00 per violation. (P.A. 277 of 2012)

### **Questions Concerning the MCFA**

Please feel free to contact the Michigan Department of State's Bureau of Elections for assistance or questions concerning the Michigan Campaign Finance Act:

Michigan Department of State, Bureau of Elections

Telephone: (517) 373-2540

E-mail: [disclosure@michigan.gov](mailto:disclosure@michigan.gov)

Web site: [www.michigan.gov/elections](http://www.michigan.gov/elections)

Follow us on Twitter @MichCFR

For U.S. Mail:

Post Office Box 20126  
Lansing, Michigan 48901-0726

For overnight delivery services, or to visit our office:

Richard H. Austin Building

State Level Committee Legislative Update Memo  
July 13, 2012  
Page: 7

430 West Allegan – 1<sup>st</sup> Floor  
Lansing, MI 48933

Corrected 7/19/2012