

Campaign Finance Talk

The Voice of the Michigan Campaign Finance Network

www.mcfn.org

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Political Reform in Michigan: Big Challenges, Little Progress

by Rich Robinson

Consider a few points about Michigan politics:

- Not one State elected official will file a campaign finance report this year, despite the fact that elected officials will hold hundreds of fundraisers and rake in millions of dollars.
- Lobbying in Lansing is a \$30 million per year business, but lobbyists don't have to disclose what bills, budgets, regulations, contracts and issues they're working on.
- Twenty million dollars worth of 2006 TV political ads can't be found in any campaign finance record because the ads were defining the character of a political candidate without making reference to voting.
- Michigan is one of only three states that does not require public officials to report their personal financial interests, so the people and the press in Michigan have no way to evaluate independently whether public officials are avoiding conflicts of interest.
- Anyone can give as much money as they choose to a Michigan political action committee or political party committee, an opportunity that only the very wealthy exploit.
- Officeholders raise tens-of-thousands of dollars in their campaign accounts even after they're term-limited and they can't run again for the office they hold.
- Michigan's ethics law does not apply to the legislative or judicial branches of State government.
- Michigan's Supreme Court has no written standards to specify when a justice should refrain from participating in a case.
- Personal convenience is not considered a sufficient reason for obtaining an absent voter ballot for an election.
- The first Michigan legislature that was significantly shaped by term limits made a bold, ideological tax-cutting move in just 24 hours that threw the State's budget into structural imbalance. Eight years later, that tax cut still hasn't been met with a budget balancing strategy.

And this list could go on and on. There are big shortcomings in the rules of Michigan politics that need to be addressed by big, bold reforms.

You may be aware that the Michigan House passed a package of 11 reforms last session, most of them near-unanimously.

Those bills got a desk-drawer veto by former Senate Majority Leader Ken Sikkema. So, you might ask, what is happening this session?

The House has been busy again. It has passed bills to require personal financial disclosure, disclosure of politicians' legal defense funds, a one-year cooling-off period before an elected official can become a paid lobbyist, prohibition against a legislator being a recipient of a State grant and a requirement for a legislator to refrain from official action if he or she has a conflict of interest. They have also passed a requirement for new media in political campaigns, such as email, web-based advertisements and telephonic robo-calls, to identify the name of the committee responsible for the ad, just the same as ads on "old media" such as TV, radio and billboards must do.

The Senate? The Campaign and Elections Oversight Committee, too, has acted on a bill to require an identifier, or "disclaimer," on new media political advertisements; but only if those robo-calls or spam make reference to voting. Otherwise, anonymity is still acceptable, apparently. The whole Senate hasn't considered the bill, so far.

Quite naturally, the entire State government is preoccupied with its budget. We are in a genuine fiscal crisis and our collective future is at stake. But our democracy needs maintenance too, and so far this legislature is no more effective at political reform than the last one. The parties need to suppress their normal desire to assert dominion over one another, and House and Senate leaders must talk to each other, rather than past each other.

There is no shortage of ideas of what should be done. Take a look at *A Case for Political Reform in Michigan*. Then ask your representative and senator what they've done for democracy this year.



Public Funding for NM Judicial Campaigns

New Mexico will become the second state to adopt a system of full public financing for its State appellate judicial campaigns, joining North Carolina. The New Mexico House and Senate passed the enabling legislation in a special session, and Gov. Bill Richardson will sign the bill into law while exercising a line-item veto on a controversial amendment to the legislation.

In New Mexico, judges of the Court of Appeals and justices of the Supreme Court are first appointed by the governor; then, stand for partisan election; and, subsequently, stand for a retention election (Shall Justice X be retained in office, yes or no?). The amendment that Richardson vetoed would have required incumbents to always run in partisan elections, rather than retention elections after the initial partisan election.

This is New Mexico's second major law concerning public financing of State election campaigns. In 2003 New Mexico adopted public funding for its elected Public Regulation Commission (a counterpart to Michigan's Public Service Commission). Prior to adopting public financing, candidates frequently financed their campaigns with contributions from the utilities they would be regulating.

Durbin, Specter Sponsor Public Funding Bill

Senators Dick Durbin (D-IL) and Arlen Specter (R-PA) have introduced a bill to provide public financing for qualifying candidates in U.S. Senate election campaigns. Rep. John Tierney (D-MA) has introduced a counterpart bill for U.S. House campaigns. The legislation, dubbed the Fair Elections Now Act, is modeled after public financing laws in Maine and Arizona. Both Durbin and Specter cited the need to break campaigns' dependence on lobbyists and special interests as motivation for the legislation.

It is not clear what sort of schedule this legislation is on, but it certainly can't hurt to contact Sen. Levin and Sen. Stabenow and let them know how you feel about the Fair Elections Now Act.

U.S. Senate to Join 21st Century

On March 28th the U.S. Senate Rules Committee unanimously passed Senate Bill 223, which will require U.S. senators to file their campaign finance reports electronically, beginning in January 2008. The senators have been the last holdouts to paper filing. Candidates for the presidency and U.S. House, federal PACs and federal party committees all have filed electronically since 2001. Federal 527 committees have filed electronically since 2003. The bill presently has a bi-partisan list of 32 co-sponsors and it should become law this year.

All State candidates, PACs and party committees in Michigan that raise and spend more than \$20,000 in an election cycle are required to file electronically. Electronically filed reports are searchable and they are available much more quickly than paper reports.

McCain-Feingold Reforms at Five Years

The Bipartisan Campaign Reform Act of 2002 (BCRA), otherwise known for its sponsors as McCain-Feingold, is five years old. If you recall the arguments leading up to the passage of BCRA, doomsayers predicted it would mean the withering of the political parties. It hasn't. In fact, the federal party committees are raising as much money as they ever did, but instead of relying on six- and seven-figure "soft money" contributions from corporations and wealthy individuals, the parties have vastly expanded their bases of contributors of limited "hard money." In 2002, those who gave \$20,000 or more accounted for 46 percent of the parties' money. In 2006, they accounted for 12 percent. In 2006, contributors who gave less than \$200 accounted for one-third of the parties' money.

Critics such as Newt Gingrich and George Will said that BCRA would be an incumbent protection act. The results don't substantiate their complaint. In the two elections before BCRA, six and eight House members were defeated, respectively. In 2006, 22 House incumbents and six senators were defeated.

The fact is that Michigan needs its own BCRA-style reforms. Increasingly, Michigan campaigns are coming down to a question of whether one billionaire can out-muscle another billionaire, or one collection of anonymous "issue" sponsors can outspend their counterparts. Leaving the financing of campaigns to a few persons and anonymous organizations with deep pockets might be a celebration of liberty, but it's not justice. And it sure isn't democracy.

State Lobbyists Report Spending \$30M in 2006

State lobbyists reported \$29.9 million in lobbying expenditures in 2006. That figure is up by 28.2 percent compared to the last gubernatorial-election year of 2002, when lobbyists' spending totaled \$23.3 million. Reported spending included \$450,994 for food and beverages – enough to provide every legislator a \$30 lunch for every session day in Lansing.

Multi-client firms were top spenders, led by: Governmental Consultant Services, Inc.: \$1,308,435; James H. Karoub Associates: \$985,129; Wiener Associates: \$667,144; Muchmore Harrington Smalley & Associates: \$612,077; and, Public Affairs Associates - \$580,804.

Top spenders among interest groups were: Michigan Education Association: \$852,000; Michigan Health & Hospital Association: \$422,375; Blue Cross and Blue Shield of Michigan: \$335,591; and, the National Federation of Independent Businesses: \$329,371.

There are serious deficiencies in the disclosure of Michigan

lobbyists' spending. First, there is no requirement for lobbyists to report what bills, budgets, contracts or issues they are working on, as federal lobbyists must. Secondly, the reporting thresholds for certain kinds of expenditures are so high that they're nearly irrelevant. For example, lobbyists don't have to report travel support for a lobbyable official unless the expenditure exceeds \$700. In effect, a roundtrip ticket to Europe wouldn't necessarily have to be reported.

This is not an argument to ban lobbyists from paying for things such as travel for public officials. There can be legitimate reasons for doing so, such as having a legislative briefing for a trade association. However, there are no legitimate reasons for not reporting such expenditures.

The list of Michigan's top 200 lobbyists is online at www.mcfn.org.

RANK	LOBBYIST NAME OR ORGANIZATION	2006	2005	CHANGE
1	Governmental Consultant Services	1,308,435	1,113,719	18%
2	James H. Karoub Associates	985,129	963,111	2%
3	MI Education Assn.	852,000	687,014	24%
4	Wiener Associates	667,144	405,365	65%
5	Muchmore Harrington Smalley & Associates	612,077	671,333	-9%
6	Public Affairs Associates Inc.	580,804	545,897	6%
7	MI Health & Hospital Assn.	422,375	373,409	13%
8	Blue Cross and Blue Shield	335,591	364,958	-8%
9	Natl. Federation of Independent Business	329,371	321,410	3%
10	Fraser Consulting LLC	318,993	340,314	-6%
11	Cusmano Kandler & Reed Inc.	286,408	287,852	-1%
12	AARP (American Assn. of Retired Persons)	278,987	267,412	4%
13	Scofes & Associates Consulting Inc.	269,220	291,320	-8%
14	TV4US	254,483	n/a	n/a
15	General Motors Corporation	251,996	255,360	-1%
16	Kheder Davis & Associates Inc.	251,995	230,558	9%
17	Kelley Cawthorne	249,961	337,138	-26%
18	Knight COUNSULTING	228,329	210,658	8%
19	MI Bell Telephone Co.	217,113	153,368	42%
20	DTE Energy Company	205,810	210,168	-2%
21	MI Cable Telecommunications Assn.	205,442	121,728	69%
22	Consumers Energy Co.	199,065	175,756	13%
23	American Cancer Society Great Lakes Division	182,749	3,323	5400%

RANK	LOBBYIST NAME OR ORGANIZATION	2006	2005	CHANGE
24	St. John Health System	181,600	168,500	8%
25	MI Dental Assn.	172,874	199,831	-14%
26	American Federation of Teachers - MI	167,911	183,119	-8%
27	Ford Motor Company	164,010	261,486	-37%
28	Insurance Institute of Michigan	158,914	148,194	7%
29	Assn. of Independent Colleges & Universities of MI	148,453	139,433	7%
30	MI Credit Union League	148,234	186,960	-21%
31	Multistate Associates Inc.	144,746	193,551	-25%
32	MI Assn. of Health Plans (MAHP)	140,384	133,934	5%
33	MI Legislative Consultants Inc.	138,603	112,753	23%
34	MI State AFL-CIO	132,724	127,412	4%
35	MI Retailers Assn.	126,435	123,333	3%
36	MI Regional Council of Carpenters	124,992	124,994	-0%
37	United Auto Workers International Union	122,995	95,523	29%
38	Pfizer Inc.	121,853	150,499	-19%
39	MPM Enterprises	120,000	120,000	0%
40	Bodman LLP	120,000	120,000	0%
41	Flint Hills Resources LLC	120,000	122,000	-2%
42	Genesee Intermediate School District	119,468	117,841	1%
43	CASG	115,924	198,681	-42%
44	Michigan State University	109,890	96,521	14%
45	University of Michigan Board of Regents	109,378	102,917	6%
46	Equitas Limited	108,000	18,000	500%
47	Greektown Casino LLC	107,100	68,713	56%
48	Jackson National Life Insurance Company	107,068	103,096	4%
49	Eli Lilly and Co.	102,601	87,092	18%
50	Prosecuting Attorneys Assn. of MI	102,388	102,270	0%
51	Natl Electrical Contractors Assn. MI Chapter	100,000	50,000	100%
52	Vanderveen & Associates	99,771	116,031	-14%
53	Clark Hill PLC	94,632	125,241	-24%
54	Corbin Consulting LLC	94,542	93,257	1%
55	MI Aggregates Assn.	93,955	6,526	1340%
56	Central Michigan University	93,515	88,514	6%
57	Sprint Communications Co. LP	90,948	63,421	43%
58	HSBC Gr Corp	90,062	84,573	7%

House Judiciary Considers Conflicts

The Michigan House Judiciary Committee has begun a series of hearings on the topics of deliberative privilege and recusal and the Michigan Supreme Court. The controversy, which has made its way onto the pages of the *New York Times* and the *Wall Street Journal*, has been portrayed by some as a personality conflict and a “family feud.” There is much more substance than that.

The public dispute arose from a case last fall involving attorney Geoffrey Fieger. Fieger had asked Chief Justice Clifford Taylor and Justices Maura Corrigan, Stephen Markman and Robert Young to recuse themselves from a case where Fieger was representing the plaintiff, because of long-standing political rancor between Fieger and the justices. The justices turned down Fieger’s request, saying that they were capable of acting impartially.

Justice Elizabeth Weaver complained that a dissent she had written in the case was suppressed by an administrative order promulgated by Chief Justice Taylor that said that all deliberative discussions are privileged and off-limits for public citation. Taylor told Weaver that if she had a problem, she should take it to the Judicial Tenure Commission, which is advisory to the Supreme Court, putting her complaint in a closed loop.

Eventually, Weaver’s dissent was published, but the issues of standards for recusal and oversight of the Supreme Court remain. Consider the circumstances surrounding the infamous Michigan Supreme Court campaign of 2000, when \$16 million was spent in a scorched-earth campaign won by Justices Markman, Taylor and Young.

DaimlerChrysler Corporation gave the U.S. Chamber of Commerce \$1 million for its \$10 million “issue” campaign that focused on Supreme Court selection in five states: Michigan,

Ohio, Indiana, Mississippi and Alabama. The U.S. Chamber, in turn, supported the Michigan Chamber of Commerce in its \$3 million “issue” campaign that defined Justices Markman, Taylor and Young flatteringly, and disparaged the Democratic nominees for the Court. Markman, Taylor and Young won by comfortable margins.

Subsequently, Justices Markman, Taylor and Young voted to overturn two eight-figure damage judgments against DaimlerChrysler, each in a separate case.

It cannot be proven that DaimlerChrysler’s million dollars was earmarked for the Michigan Supreme Court campaign in 2000. There is no public record of who gave the Michigan Chamber of Commerce the money it used for its “issue” campaign that said that the Democratic nominees had made “Too many wrong decisions.” Under Michigan’s weak campaign finance law, such ads are not “campaign expenditures” because they don’t make reference to voting. However, there is a valid question here, whether these circumstances violate the American Bar Association’s Model Code of Judicial Conduct that advises against even the appearance of a conflict of interest.

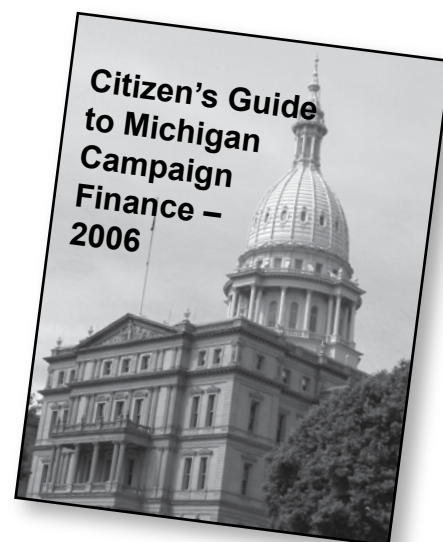
In fact, this sort of hazard is endemic to Michigan Supreme Court campaigns, because so-called issue advertisements that completely defy disclosure have been a central feature in the last four Supreme Court campaigns. The Michigan Chamber has spent \$6 million of the \$15 million spent to support the five incumbent Republican nominees, and the Chamber hasn’t revealed anything about its financial sources. Is the appearance of a conflict of interest concealed beneath a cloak of anonymity? How should the Court deal with this question? Or should the House provide guidance?

Citizen’s Guide – 2006: Coming Soon

The 2006 Michigan elections shattered campaign finance records in every category imaginable:

- \$75 million gubernatorial campaign
- \$35.5 million self-funding by Dick DeVos
- \$20 million spent anonymously for campaign “issue” ads
- \$5 million in PAC contributions by Jon Stryker
- \$2 million campaigns for the Michigan Senate
- \$1 million campaigns for the Michigan House

The Citizen’s Guide to Michigan Campaign Finance – 2006 will be released in May with the definitive story of money in Michigan’s 2006 elections, including the top contributors to all State officeholders. Don’t miss it.



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The voice of the



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