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LIMIT FORMER FIB CHIEF AS SHAREHOLDER

House Bill 4854 as introduced
First Analysis (7-27-89)

Sponsor: Rep. Terry London
Committee: Corporations and Finance

THE APPARENT PROBLEM:

The Financial Institutions Bureau (FIB) within the Department of Commerce regulates financial institutions doing business within the state. The Banking Code, which establishes the bureau, specifies that the bureau is governed by the FIB commissioner (also known as the "banking commissioner") who is appointed by the governor with the advice and consent of the Senate. The code currently prohibits the commissioner, while in office, from being affiliated directly or indirectly with, or having any shareholder interest in, an institution regulated by the bureau. This provision is intended to protect against a conflict of interest that could arise if a public official is allowed to take part in business activities he or she is supposed to be regulating. Some feel this provision should also apply to an ex-banking commissioner for six months after leaving his or her post, just as Public Service Commission (PSC) officials, for instance, currently are barred from working for a company regulated by the PSC (which regulates primarily utility companies) for six months after leaving office.

THE CONTENT OF THE BILL:

The bill would amend the Banking Code to prohibit the banking commissioner for a period of 6 months after leaving office from being a shareholder or in any way being connected, directly or indirectly, with an institution regulated by the Financial Institutions Bureau.

MCL 487.311

FISCAL IMPLICATIONS:

According to the Department of Commerce, the bill would not affect state expenditures. (7-26-89)

ARGUMENTS:

For:

As the top regulator of financial institutions in the state, the banking commissioner is given fairly broad powers relative to laws governing these institutions. With this authority, a commissioner could use his or her rule-making authority to give favorable treatment to a firm which he or she plans to become affiliated with after leaving public office. Government regulators should be prevented from using their public authority to advance private interests. Another bill (House Bill 4152) would provide similar restrictions for the insurance commissioner, and PSC commissioners are currently barred from working for regulated utilities for six months after leaving the commission.

Against:

Many past banking commissioners were chosen to direct the bureau because of their knowledge of, and experience working for, financial institutions. To bar an ex-commissioner from working for a state financial institution would unfairly limit him or her from using the knowledge and skills which determine the quality of life he or she wishes to pursue. Besides, a six-month prohibition period still would not prevent an unscrupulous commissioner from making a deal with a private firm for affiliation after this term expired.

Response: An ex-banking commissioner does not automatically move into the banking industry after serving in a public capacity, nor are banking commissioners necessarily chosen for office because of their prior experience in banking firms (for example, neither the current commissioner nor his predecessor came from financial institutions, according to a spokesperson from the Financial Institutions Bureau). Furthermore, commissioners are often chosen from a list of national candidates and are probably well-recognized on a national level within the banking industry before they serve in Michigan. Under the bill, a commissioner who left the post could still move on to a banking firm that was not state-regulated, probably without much difficulty, if he or she so desired.

POSITIONS:

The Department of Commerce has not yet taken a position on the bill. (7-26-89)