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INSURANCE COMMISSIONER: REVOLVING DOOR

House Bill 4912 (Substitute H-6)
First Analysis (11-15-89)

Sponsor: Rep. Nelson W. Saunders
Committee: Insurance

THE APPARENT PROBLEM:

One means of addressing the so-called revolving door problem, whereby individuals move back and forth between a regulatory agency and a regulated industry, is to establish waiting periods so that a person cannot move immediately from one to the other. This issue has arisen recently because Michigan's most recent insurance commissioner, Herman Coleman, left his job to join AAA Michigan, the state's largest auto insurer. (At the time the move was announced, a consumer group was before the Insurance Bureau challenging a rate increase by AAA.) Some consumer advocates, while not alleging that there were any improprieties in that instance (the commissioner did not take part in the case), believe that actions of this kind create a conflict of interest for a regulator that should be avoided. The House recently passed legislation to prohibit a banking commissioner from moving immediately to a regulated institution, and similar legislation has been proposed for the insurance commissioner.

THE CONTENT OF THE BILL:

The bill would amend the Insurance Code to prohibit a commissioner of insurance from being a stockholder or directly or indirectly connected with the management of affairs of an insurance company, health care corporation, or health maintenance organization for two years after leaving office.

MCL 500.202

FISCAL IMPLICATIONS:

The bill has no revenue or budgetary implications for the state, according to the Insurance Bureau. (10-31-89)

ARGUMENTS:

For:

The insurance commissioner, like other regulators, is supposed to act in the public interest and not give favorable treatment to any special interest. The bill would remove any temptation for an insurance commissioner to give favorable treatment to a future employer by specifying that he or she could not be involved with the regulated industry for two years after leaving office. It will also prevent companies from recruiting sitting insurance commissioners.

Against:

The time limit imposed by this bill is too restrictive. Similar legislation recently passed by the House said the banking commissioner could not be involved with a regulated institution for six months after leaving office. The same time limit applies to those serving on the Public Service Commission. That seems sufficient to guard against a regulator acting with future employment in mind. Whatever restrictions are imposed on the insurance commissioner, they ought to be consistent with the restrictions on other regulators or, perhaps, on all other government officials with the opportunity for self-interested action.

Against:

Some people believe it is ridiculous and insulting to assume that an individual cannot at different times ethically carry out the duties and responsibilities of different offices. In fact, it is done all the time. Ethical behavior on the part of regulators cannot be guaranteed nor can unethical behavior be prevented through legislation. The bill deprives those who serve as insurance commissioner from using their expertise in the industry upon leaving office.

Response: Certainly, legislation of this kind can remove temptation and eliminate conflicts of interest. The existence of a conflict of interest does not mean than anyone is engaging in or will engage in improper behavior, it means that a person faces a conflict of a kind that a person in that position ought not to face when making certain decisions. The bill also prevents an individual from using the insurance commissioner's office simply as a means of enhancing his or her employment value in the insurance industry.

POSITIONS:

The Insurance Bureau has said it "supports the goal of preventing regulators from acting in self-interest, but believes the interval proposed is longer than necessary to accomplish that goal." (10-31-89)

The Michigan Citizens Lobby supports the bill. (11-14-89)

The Michigan Association of Professional Insurance Agents supports the bill. (11-13-89)

The Michigan Insurance Federation is opposed to the bill until it is broadened to apply equally to other department heads. (11-13-89)