

**SFA**

BILL ANALYSIS

Senate Fiscal Agency

• Lansing, Michigan 48909

• (517) 373-5383

House Bill 4854 (Substitute S-1 as reported)  
Sponsor: Representative Terry London  
House Committee: Corporations and Finance  
Senate Committee: Regulatory Affairs

Date Completed: 12-5-89

**RATIONALE**

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, provides that the Bureau is run by the FIB Commissioner, who is appointed by the Governor with the advice and consent of the Senate. Currently, the Code 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 were allowed to take part in business activities he or she was supposed to help regulate. Some people feel a restriction also should apply to a former 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 for six months after leaving office.

**CONTENT**

The bill would amend the Banking Code to prohibit the Commissioner of the Financial Institutions Bureau for a period of six months after leaving office from accepting employment with a State-chartered depository financial institution regulated by the Bureau.

MCL 487.311

**SENATE COMMITTEE ACTION**

The Senate Regulatory Affairs Committee adopted an amendment to the bill to prohibit the FIB Commissioner, for a period of six

months after leaving office, from accepting employment with a financial institution regulated by the Bureau. As passed by the House, the bill would have prohibited the FIB Commissioner, for a period of six months after leaving office, from being a shareholder or in any way connected, directly or indirectly, with an institution regulated by the Bureau.

**FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

**ARGUMENTS****Supporting Argument**

The bill would help to prevent a situation in which a person in an important government regulatory position could use the position as leverage to secure a lucrative private sector job. As the top regulator of financial institutions in the State, the FIB Commissioner is given fairly broad powers relative to laws governing these institutions. With this authority, a Commissioner could use his or her rule-making responsibility to give favorable treatment to a firm with which he or she planned to become affiliated after leaving public office. Government regulators should be prevented from using their authority to advance private interests. PSC Commissioners are currently barred from working for regulated utilities for six months after leaving the PSC.

**Opposing Argument**

Many past FIB Commissioners were chosen to direct the Bureau because of their knowledge of, and experience working for, financial

H.B. 4854 (12-5-89)

institutions. To bar an ex-Commissioner from working for a State financial institution would unfairly limit the person in using his or her knowledge and skills to make a living. Further, a six-month prohibition would not prevent an unscrupulous Commissioner from making a deal with a private firm for a job after the six months ended.

**Response:** A former Commissioner does not automatically move into the banking industry after serving in a public capacity, nor are FIB Commissioners necessarily chosen for office because of their prior experience in banking firms. 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.

Legislative Analyst: G. Towne  
Fiscal Analyst: J. Schultz

H8990\S4854A

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.