

HOUSE BILL No. 4939

September 3, 2013, Introduced by Reps. Knezek and Heise and referred to the Committee on Local Government.

A bill to amend 1978 PA 566, entitled

"An act to encourage the faithful performance of official duties by certain public officers and public employees; to prescribe standards of conduct for certain public officers and public employees; to prohibit the holding of incompatible public offices; and to provide certain judicial remedies,"

by amending section 3 (MCL 15.183), as amended by 2011 PA 196.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) Section 2 does not prohibit a public officer's or
2 public employee's appointment or election to, or membership on, a
3 governing board of an institution of higher education. However, a
4 public officer or public employee shall not be a member of
5 governing boards of more than 1 institution of higher education
6 simultaneously, and a public officer or public employee shall not
7 be an employee and member of a governing board of an institution of
8 higher education simultaneously.

1 (2) Section 2 does not prohibit a member of a school board of
2 1 school district from being a superintendent of another school
3 district.

4 (3) Section 2 does not prohibit a public officer or public
5 employee of a city, village, township, school district, community
6 college district, or county from being appointed to and serving as
7 a member of the board of a tax increment finance authority under
8 the tax increment finance authority act, 1980 PA 450, MCL 125.1801
9 to 125.1830; a downtown development authority under 1975 PA 197,
10 MCL 125.1651 to 125.1681; a local development finance authority
11 under the local development financing act, 1986 PA 281, MCL
12 125.2151 to 125.2174; a brownfield redevelopment authority under
13 the brownfield redevelopment financing act, 1996 PA 381, MCL
14 125.2651 to 125.2672; a housing commission created under 1933 (Ex
15 Sess) PA 18, MCL 125.651 to 125.709c; a neighborhood improvement
16 authority under the neighborhood improvement authority act, 2007 PA
17 61, MCL 125.2911 to 125.2932; a water resource improvement tax
18 increment finance authority under the water resource improvement
19 tax increment finance authority act, 2008 PA 94, MCL 125.1771 to
20 125.1794; a historical neighborhood tax increment finance authority
21 under the historical neighborhood tax increment finance authority
22 act, 2004 PA 530, MCL 125.2841 to 125.2866; a member of a board of
23 a principal shopping district or a member of a board of directors
24 of a business improvement zone under 1961 PA 120, MCL 125.981 to
25 125.990m; an officer of a metropolitan district under the
26 metropolitan district act, 1929 PA 312, MCL 119.1 to 119.18; a
27 member of a board of directors of a land bank fast track authority

1 under the land bank fast track act, 2003 PA 258, MCL 124.751 to
2 124.774; or a corridor improvement authority under the corridor
3 improvement authority act, 2005 PA 280, MCL 125.2871 to 125.2899.

4 (4) Section 2 does not do any of the following:

5 (a) Prohibit public officers or public employees of a city,
6 village, township, or county having a population of less than
7 25,000 from serving, with or without compensation, as emergency
8 medical services personnel as defined in section 20904 of the
9 public health code, 1978 PA 368, MCL 333.20904.

10 (b) Prohibit public officers or public employees of a city,
11 village, township, or county having a population of less than
12 25,000 from serving, with or without compensation, as a firefighter
13 in that city, village, township, or county if that firefighter is
14 not any of the following:

15 (i) A full-time firefighter.

16 (ii) A fire chief.

17 (iii) A person who negotiates with the city, village, township,
18 or county on behalf of the firefighters.

19 (c) Limit the authority of the governing body of a city,
20 village, township, or county having a population of less than
21 25,000 to authorize a public officer or public employee to perform,
22 with or without compensation, other additional services for the
23 unit of local government.

24 (d) Prohibit a public officer or public employee of a city,
25 village, township, or county having a population of less than 3,000
26 from serving, with or without compensation, as a fire chief in that
27 city, village, township, or county.

1 (5) This section does not relieve a person from otherwise
2 meeting statutory or constitutional qualifications for eligibility
3 to, or the continued holding of, a public office.

4 (6) This section does not allow or sanction activity
5 constituting conflict of interest prohibited by the constitution or
6 laws of this state.

7 (7) This section does not allow or sanction specific actions
8 taken in the course of performance of duties as a public official
9 or as a member of a governing body of an institution of higher
10 education that would result in a breach of duty as a public officer
11 or board member.

12 (8) Section 2 does not prohibit a public officer or public
13 employee of a community mental health services program as defined
14 in section 100a of the mental health code, 1974 PA 258, MCL
15 330.1100a, from serving as a public officer or public employee of a
16 separate legal or administrative entity created by 2 or more
17 community mental health services programs under the urban
18 cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to
19 124.512, a joint board or commission created under 1967 (Ex Sess)
20 PA 8, MCL 124.531 to 124.536, or a regional entity created under
21 section 204b of the mental health code, 1974 PA 258, MCL 330.1204b,
22 whether or not the separate legal or administrative entity, joint
23 board or commission, or regional entity may enter into contracts or
24 agreements with 1 or more of the community mental health services
25 programs.

26 (9) Section 2 does not prohibit a member of a school board
27 from being appointed to or serving as a volunteer coach or

1 supervisor of a student extracurricular activity if all of the
2 following conditions are present:

3 (a) The school board member receives no compensation for
4 service as a volunteer coach or supervisor.

5 (b) During the period he or she serves as a volunteer, the
6 school board member abstains from voting on issues before the
7 school board concerning that program.

8 (c) There is no qualified applicant available to fill a vacant
9 position if the school board member is excluded.

10 (d) The appointing authority has received the results of a
11 criminal history check and a criminal records check from the
12 department of state police or the federal bureau of investigation
13 for the school board member.

14 (10) Section 2 does not prohibit a superintendent of an
15 intermediate school district from serving simultaneously as
16 superintendent of a local school district, or prohibit an
17 intermediate school district from contracting with another person
18 to serve as superintendent of a local school district, even if the
19 local school district is a constituent district of the intermediate
20 school district. As used in this subsection, "constituent district"
21 means that term as defined in section 3 of the revised school code,
22 1976 PA 451, MCL 380.3.

23 (11) Section 2 does not prohibit a public officer or public
24 employee of an authority created under the public transportation
25 authority act, 1986 PA 196, MCL 124.451 to 124.479, from serving as
26 a public officer or public employee of another public
27 transportation authority if each public transportation authority

1 has members consisting of identical political subdivisions.

2 (12) Section 2 does not prohibit a township supervisor from
3 being appointed as a member of a county board of public works as
4 provided in section 2(2)(c) of 1957 PA 185, MCL 123.732.

5 (13) SECTION 2 DOES NOT PROHIBIT A DEPARTMENT HEAD IN A CITY
6 HAVING A POPULATION OF LESS THAN 50,000 FROM ALSO SERVING AS THE
7 CITY MANAGER.