

SENATE BILL No. 576

October 2, 2013, Introduced by Senators SCHUITMAKER and JONES and referred to the Committee on Reforms, Restructuring and Reinventing.

A bill to establish supplemental conflict of interest standards for members of regulatory bodies in the department of licensing and regulatory affairs; to require disclosure of certain interests; to provide grounds for removal of members of regulatory bodies; to provide a process for raising and determining possible conflicts of interest; and to provide for voiding certain actions taken in violation of this act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) This act shall be known and may be cited as the
2 "regulatory boards and commissions ethics act".

3 (2) As used in this act:

4 (a) "Board" means a board, commission, or committee in the

1 department that has authority in regulatory actions concerning
2 private individuals or entities.

3 (b) "Department" means the department of licensing and
4 regulatory affairs.

5 (c) "Immediate family member" means a grandparent, parent,
6 parent-in-law, stepparent, sibling, spouse, child, or stepchild.

7 Sec. 2. In addition to any other standard of conduct or
8 disclosure requirement that may apply to a member or designated
9 alternate member of a board, each member or designated alternate
10 shall comply with the standards set forth in this act.

11 Sec. 3. (1) A board member shall do all of the following:

12 (a) Disclose to the board and the director of the department
13 any pecuniary, contractual, business, employment, or personal
14 interest that the board member may have in a contract, grant, loan,
15 or regulatory matter before the board. Disclosure is also required
16 if an immediate family member of a board member is a director,
17 officer, direct or indirect shareholder, or employee of an entity
18 under consideration for a contract, grant, or loan or is the
19 subject of a regulatory action before the board. However, this
20 subdivision does not require disclosure of a 2% or smaller interest
21 in a publicly traded company.

22 (b) Refrain from participating in any discussion, directly or
23 indirectly, with other board members regarding a matter before the
24 board if the board member has a direct or indirect interest
25 described in subdivision (a).

26 (c) Abstain from voting on any motion or resolution relating
27 to a matter in which the board member has a direct or indirect

1 interest described in subdivision (a).

2 (d) Use state resources, property, and funds under the board
3 member's official care and control judiciously and solely in
4 accordance with prescribed constitutional, statutory, and
5 regulatory procedures and not for personal gain or benefit.

6 (2) A board member shall refrain from all of the following:

7 (a) Divulging to an unauthorized person any confidential
8 information acquired in the course of the member's service on the
9 board before the time prescribed or authorized for release to the
10 public.

11 (b) Representing his or her personal opinion as that of the
12 board or the department.

13 (c) Soliciting or accepting a gift or loan of money, goods,
14 services, or other thing of value for the benefit of a person or
15 organization other than this state that could reasonably be
16 expected to influence the manner in which the board member performs
17 official duties.

18 (d) Engaging in a business transaction in which the board
19 member may profit from his or her official position or authority as
20 a board member or benefit financially from confidential information
21 that the board member obtained or may obtain incident to the board
22 membership.

23 (e) Rendering services for a private or public interest if
24 that service is incompatible or in conflict with the discharge of
25 the board member's official duties.

26 (f) Participating in negotiating or executing contracts,
27 making loans, granting subsidies, fixing rates, issuing permits or

1 certificates, or other regulation or supervision relating to a
2 business entity in which the board member or an immediate family
3 member of the board member has a pecuniary or personal interest,
4 other than a 2% or smaller interest in a publicly traded company.

5 Sec. 4. A contract, grant, or loan that a board enters into
6 with or awards to a board member or an immediate family member of a
7 board member with an interest in the matter is adopted in violation
8 of conflict of interest standards and is voidable at the option of
9 the department unless the affected board member complies with all
10 of the following:

11 (a) Except as expressly permitted by applicable law, the
12 affected board member has abstained from participating in the
13 discussion or vote on the matter.

14 (b) The affected board member promptly disclosed the
15 pecuniary, contractual, business, employment, or personal interest
16 in the contract, grant, or loan in the manner required by this act
17 and other applicable law.

18 Sec. 5. (1) A board member who fails to disclose an interest
19 described in section 3(1)(a) is subject to immediate removal from
20 the board by the governor.

21 (2) A person who has reason to believe that a board member has
22 failed to disclose an interest described in section 3(1)(a) or has
23 an interest that is not required to be disclosed but that would
24 have a tendency to affect the ability of the member to render an
25 impartial decision on a matter may request, not later than 1 year
26 after the board takes any action on the matter, that the board
27 consider the issue of a conflict of interest as to that matter. The

1 board members who are not the subject of the potential conflict of
2 interest shall investigate the matter and decide the issue of
3 whether or not the board member has an undisclosed interest
4 described in section 3(1)(a) or has another conflict of interest
5 sufficient to raise a reasonable doubt as to whether the board
6 member could render an impartial decision.

7 (3) If a board determines that a member has an undisclosed
8 conflict of interest in violation of section 3(1)(a), the member is
9 subject to immediate removal by the governor. If a board determines
10 under subsection (2) that the board member has another interest
11 that is sufficient to raise a reasonable doubt as to whether the
12 board member could render an impartial decision, any action the
13 board took regarding the matter in which the board member with a
14 conflict of interest participated is void unless affirmed by a
15 majority of the board. The board shall reconsider the action
16 without the participation of the board member who was found to have
17 a conflict of interest.

18 Sec. 6. This act is intended to supplement existing ethics
19 laws, and if there is a conflict, the following laws prevail:

20 (a) Section 10 of article IV of the state constitution 1963.

21 (b) 1978 PA 566, MCL 15.181 to 15.185.

22 (c) 1968 PA 318, MCL 15.301 to 15.310.

23 (d) 1968 PA 317, MCL 15.321 to 15.330.

24 (e) 1973 PA 196, MCL 15.341 to 15.348.