



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 4208 (as reported without amendment)
Sponsor: Representative Aaron Miller
House Committee: Elections and Ethics
Senate Committee: Elections and Government Reform

Date Completed: 5-18-17

RATIONALE

Incidents that occurred during the 2015-2016 legislative session involving members of the Michigan House of Representatives have raised a concern about the ability of a legislator to run for a vacancy created by his or her resignation or removal. Specifically, on September 11, 2015, Representative Todd Courser resigned from his office as the House of Representatives prepared for a third vote on a resolution to expel him from office. Shortly thereafter, Representative Cindy Gamrat was removed from office after a two-thirds majority of the House voted to expel her for misconduct. Special elections for the vacant seats were called for the following March. The filing deadlines for the primary elections were set for September 18, 2015. Both Mr. Courser and Ms. Gamrat entered the primary elections in their districts to run for the same seats from which they had resigned or been expelled. Some people feel that a legislator who resigns or is removed from office should be prohibited from running to fill the seat he or she left vacant.

CONTENT

The bill would amend of the Michigan Election Law to provide that the resignation or removal of a State Senator or Representative would remain in effect for the duration of the unexpired term.

Under the Law, an individual elected to the office of State Senator or Representative who desires to resign must file a written notice containing the effective date of the resignation with the presiding officer of his or her respective house, who must immediately transmit the written notice to the Governor. The bill specifies that the resignation of an individual from the office of the State Senator or Representative would remain in effect for the duration of the unexpired legislative term.

The Law specifies that any State Senator or Representative may be removed from office as provided in Article IV, Section 16 of the Michigan Constitution (under which each house of the Legislature may, with the concurrence of a two-thirds majority, expel a member). The bill specifies that the removal of an individual from the office of the State Senator or Representative would remain in effect for the duration of the unexpired legislative term.

MCL 168.175 & 168.77

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

When a member resigns from either the Senate or the House of Representatives, a special election is held to fill the seat left vacant by the resignation. The cost of such a special election is an

otherwise unnecessary expense that falls to the taxpayers. A resignation that causes such a taxpayer burden should be consequential and irrevocable. The bill would not prevent the member from running for election the following term, but would prohibit him or her from running in the special election called to fill the seat left vacant by his or her removal or resignation.

Supporting Argument

The State Legislature has the responsibility to oversee itself, and the legal ability to do so, pursuant to the Constitution. The bill would reinforce the Legislature's authority to hold its members accountable for wrongdoing and ensure that the removal of a member remained in effect for the remainder of the term.

Opposing Argument

The bill would frustrate the will of the voters. An expelled member's constituents may disagree with the two-thirds of the chamber who voted to remove their representative. If a member of the Senate or House of Representatives is expelled for a trivial, inadequate, or retaliatory reason, that member's constituents should be allowed the opportunity to reassert their will and elect the representative of their choosing.

Response: Under the Constitution, a member's house is "the sole judge of the qualifications, elections and returns of its members". That house has the legal right to unseat a member. If a member has been deemed unfit to serve and then is reelected, the same legislators will be faced with the decision of whether to seat the member.

Legislative Analyst: Nathan Leaman

FISCAL IMPACT

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

Fiscal Analyst: Joe Carrasco

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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.