

ABSTAINING FROM CONFLICT OF INTEREST VOTES

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House Bill 4001 (H-4) as reported from committee

Sponsor: Rep. Pamela Hornberger

Committee: Elections and Ethics

Complete to 5-5-21

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4001 would amend 1968 PA 318, also known as the conflict of interest act. Section 1 of that act states that it was enacted to implement section 10 of Article IV of the Michigan Constitution of 1963 and should be taken into consideration when determining the construction and effect of that section.

The relevant constitutional section reads: “No member of the legislature nor any state officer shall be invested directly or indirectly in any contract with the state or any political subdivision thereof which shall cause a substantial conflict of interest. The legislature shall further implement this provision by appropriate legislation.”

The bill would prohibit a member of the legislature from voting on a bill, a joint resolution, or an alternative measure if the member has knowledge that he or she has a *personal or professional interest* in the bill, joint resolution, or alternative measure. However, a violation would not nullify or affect the validity of the member’s vote on that bill, joint resolution, or alternative measure.

Personal or professional interest would mean an interest that would directly provide a substantial pecuniary benefit particular to one or more of the following:

- The member of the legislature.
- An individual or entity to whom the member is financially or legally obligated, if that interest or benefit would directly or indirectly provide a substantial pecuniary benefit particular to the member or his or her *immediate family member*.
- The member’s immediate family member.

Immediate family member would mean an individual’s spouse or dependent child or a person claimed as a dependent by the individual or the individual’s spouse for federal income tax purposes.

Under the bill, a benefit would be considered particular to an individual if it affected the individual more than other similarly situated individuals in the same class.

Each house would be the sole judge of its members under this provision, and a member willfully violating it would be subject to appropriate disciplinary action by the member’s house.

The bill is tie-barred to House Bills 4682 and 4683,¹ which means that it could not take effect unless HBs 4682 and 4683 were also enacted. Both of those bills would also amend the conflict of interest act to modify the effect of the act in relation to section 10 of Article IV of the state constitution.

Proposed MCL 15.308a

FISCAL IMPACT:

The bill would have no fiscal impact on the state or on local units of government.

POSITIONS:

The Michigan Secretary of State indicated support for the bill. (4-20-21)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

¹ House Fiscal Agency summary of House Bills 4680 to 4684: <http://www.legislature.mi.gov/documents/2021-2022/billanalysis/House/pdf/2021-HLA-4680-DD338F69.pdf>