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NO HONORARIA FOR ELECTED OFFICIALS

House Bill 4381 as introduced First Analysis (3-18-99)

Sponsor: Rep. Sue Rocca
Committee: Constitutional Law and Ethics

THE APPARENT PROBLEM:

Among other things, Public Act 385 of 1994 amended the Michigan Campaign Finance Act to prohibit legislators from accepting honoraria, where "honorarium" means a payment of money, to a person holding elective office, for an appearance, speech, article, or any activity related to or associated with his or her duties as an elected official. ("Honorarium" doesn't include reimbursement for transportation, accommodations, or meals; awards; or governmental authorized payment of wages, salaries, or other employee compensation.) Anyone knowingly violating this section of the act is guilty of a misdemeanor, punishable by a fine of up to \$1,000, imprisonment for up to 90 days, or both. At the time the legislation was enacted in 1995, some people argued that by applying only to legislators -- state senators or representatives -- the prohibition did not go far enough, and should apply at least to all elected officials. Legislation has been introduced to extend this ban to all elected officials.

THE CONTENT OF THE BILL:

The bill would amend the Michigan Campaign Finance Act to extend to all elected officials the prohibition against accepting honoraria that currently applies only to legislators. Violations, as currently, would be misdemeanors punishable by a fine of up to \$1,000 or 90 days imprisonment, or both.

MCL 169.250

BACKGROUND INFORMATION:

An identical enrolled bill, House Bill 4160, was vetoed last session by the governor, who said in his veto message that he found the bill "overbroad in its application. The fact that the legislation ha[d] been given immediate effect means that any local official that would now be covered in this section could unwittingly be engaging in criminal activity and find

himself or herself subject to fines and up to 90 days in jail." (12-21-98)

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill could result in an indeterminate revenue increase to state and local governments from fines paid by violators. (3-17-99)

ARGUMENTS:

For:

The bill could improve public confidence in elected officials by extending the ban on honoraria, which currently applies only to state legislators, to all state and local elected officials. Public confidence in government depends partly on citizens believing that elected public officials exercise their judgment and make official decisions based on honest, informed assessments of what is in the public interest. But all too often, the public's perception of their elected officials is that their decisions and actions are driven by special interest groups whose influence over elected officials stems from contributions and special favors to those officials. While honoraria do not appear to be a significant source of influencing elected officials, banning the acceptance of such fees could only serve to strengthen what many perceive to be all-too-weak professional ethics on the part of elected public officials.

For:

When elected public officials, whether state or local, make speeches, participate in panel discussions, or otherwise make appearances as part of their public duties, they should not accept payment for so doing since they already are being paid (by the state or their local unit of government) to perform their public duties. Public officials know, or should know, what their responsibilities and rates of compensation are

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when they take office, and they should be willing to carry out the duties of their office without added compensation from private interest groups.

Against:

Although the bill would extend the ban on honoraria from state legislators to all state or local elected officials, it still does not go far enough. For one thing, the ban on accepting honoraria should apply to all public officials, whether elected or appointed. Secondly, however, the bill still would allow public officials to accept "reimbursement" for the costs of transportation, meals, and accommodations, and the lobbying act doesn't even require that lobbyists report any travel or lodging expenses paid to a public official unless the amount is greater than \$500. If public officials are going to be allowed to continue to receive money from private interest groups for travel, meals, and lodging expenses incurred in the course of performing their official duties, at the very least the public official should be required to report such income. Finally, since both current legislation and the bill do not have any notification requirements, how are violations of the act and the bill going to be discovered or reported?

POSITIONS:

Common Cause of Michigan supports the bill. (3-16-99)

The Michigan Chamber of Commerce supports the bill. (3-16-99)

Analyst: S. Ekstrom

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