

Legislative Analysis



SCHOOL BOARDS: DEFINITION OF RESIDENCE

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House Bill 4739 without amendment
Sponsor: Rep. Robert Dean

House Bill 4740 without amendment
Sponsor: Rep. Steve Tobocman
Committee: Ethics and Elections

First Analysis (6-1-07)

BRIEF SUMMARY: The bills would amend the Michigan Election Law to provide consistent definitions of "residence," "residing," and "resident of the state" for elected school board members who serve on the state and local boards of education, as well as university and community college boards.

FISCAL IMPACT: The bills would have no state or local fiscal impact.

THE APPARENT PROBLEM:

Under Michigan's Election Law, those who are elected to serve must be residents of the jurisdictions they have been elected to represent. The law defines "residence," *for registration and voting purposes*, to mean that place at which a person habitually sleeps, keeps his or her personal effects and has a regular place of lodging. If a person has more than one residence, or if a wife has a residence separate from that of the husband, that place at which the person resides the greater part of the time shall be his or her official residence. (Michigan Compiled Laws 168.11)

Despite this requirement, two people elected to education posts—a trustee at Wayne County Community College and a member of the State Board of Education—have reportedly resided outside either the community college district or the state, respectively, for long periods of time. They have argued, however, that they continue to be residents for registration and voting purposes.

In order to clarify that the legal provision defining residence applies to *all* of those serving on education boards within the state and not just *for registration and voting purposes*, legislation has been proposed to amend both the Community Colleges Act and the Michigan Election Law.

THE CONTENT OF THE BILLS:

Under current law, generally speaking, a local school board member must be a resident of the school district, a community college trustee must be a member of the college district, and members of the State Board of Education and elected university boards must be residents of the state. (The elected university boards are for the University of Michigan,

Michigan State, and Wayne State.) Typically, a board vacancy is to be declared if the residency requirement is not met.

House Bill 4739 would amend the Michigan Election Law (MCL 168.11a) and House Bill 4740 would amend the Community College Act (MCL 389.105) to provide consistent definitions of "residence," "residing," and "resident of the state."

The definition of "residence" or "residing" would be:

That place at which a person habitually sleeps, keeps his or her personal effects, and has a regular place of lodging. If a person has more than one residence, or if a spouse has a residence separate from that of the other spouse, that place at which the person resides the greater part of the time is his or her official residence.

ARGUMENTS:

For:

To effectively serve a community college district—or any education jurisdiction from which a school board member has been elected—an elected trustee must reside in that district. It is not enough, however, to reside in a district part-time, or only for the purpose of registration and voting. Instead, an elected official must reside in a district in a regular place of lodging where he or she habitually sleeps. This kind of residency assures the trustee will be near at hand to attend to the business of the college board of trustees when that is necessary. It also ensures the trustee will know, firsthand and continuously, the concerns of the district's constituents.

Against:

Some have pointed out that the proposed definition is very similar to the definition of "residence" that is already found in the Michigan Election Law, and they question whether House Bill 4739 is necessary.

Response:

Although the proposed definition is similar, it is not identical, allowing, as it does, for an interpretation concerning the words "for registration and voting purposes." House Bill 4739 would eliminate that phrase, to better ensure that definition of "residence" and "residing" would apply to a person's service as an elected school official.

POSITIONS:

No positions were advanced.

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