

HOUSE BILL No. 4026

January 22, 2013, Introduced by Reps. Haines, Haugh, Franz, Bumstead, Rendon, Brown, Kowall and Rogers and referred to the Committee on Oversight.

A bill to amend 1846 RS 12, entitled
"Of certain state officers,"
(MCL 14.28 to 14.35) by adding section 32a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 32A. (1) BEFORE A GOVERNMENTAL UNIT OR OFFICER OF THIS
2 STATE ENTERS INTO A CROSS BOUNDARY MEMORANDUM OF AGREEMENT, THE
3 GOVERNMENTAL UNIT OR STATE OFFICER SHALL FORWARD ALL OF THE
4 FOLLOWING TO THE ATTORNEY GENERAL:

5 (A) A COPY OF THE CROSS BOUNDARY MEMORANDUM OF AGREEMENT.

6 (B) A WRITTEN PRELIMINARY REVIEW OF THE CROSS BOUNDARY
7 MEMORANDUM OF AGREEMENT THAT ADDRESSES WHETHER IT IS A LEGALLY
8 BINDING OR ENFORCEABLE AGREEMENT.

9 (C) FOR A CROSS BOUNDARY MEMORANDUM OF AGREEMENT THAT APPEARS

1 TO BE A LEGALLY BINDING OR ENFORCEABLE AGREEMENT, A WRITTEN FULL
2 REVIEW THAT INCLUDES BOTH OF THE FOLLOWING CONSIDERATIONS:

3 (i) STATE AND FEDERAL CONSTITUTIONAL REQUIREMENTS AND
4 LIMITATIONS.

5 (ii) THE EXISTENCE OF STATUTORY AUTHORITY FOR THE CROSS
6 BOUNDARY MEMORANDUM OF AGREEMENT AND THE EXTENT OF THE AUTHORITY,
7 IF ANY, GRANTED TO THE DEPARTMENT, AGENCY, DIVISION, SUBUNIT, OR
8 OFFICER THAT WOULD EXECUTE THE CROSS BOUNDARY MEMORANDUM OF
9 AGREEMENT.

10 (2) WITHIN 10 DAYS AFTER EXECUTING A CROSS BOUNDARY MEMORANDUM
11 OF AGREEMENT, THE GOVERNMENTAL UNIT OR OFFICER SHALL FORWARD THE
12 EXECUTED AGREEMENT TO THE OFFICE OF THE GREAT SEAL WITH A COPY TO
13 THE ATTORNEY GENERAL.

14 (3) THE OFFICE OF THE GREAT SEAL SHALL ACCEPT AND OFFICIALLY
15 FILE A CROSS BOUNDARY MEMORANDUM OF AGREEMENT. BY SEPTEMBER 1,
16 2016, EACH STATE GOVERNMENTAL UNIT SHALL FORWARD A COPY OF ANY
17 CROSS BOUNDARY MEMORANDUM OF AGREEMENT THAT IT ENTERED INTO BEFORE
18 SEPTEMBER 1, 2014, AND THAT IS LEGALLY BINDING AND STILL IN EFFECT,
19 TO THE OFFICE OF THE GREAT SEAL FOR INCLUSION IN THE CENTRAL
20 REPOSITORY CREATED IN SUBSECTION (4).

21 (4) BY SEPTEMBER 1, 2014, THE OFFICE OF THE GREAT SEAL SHALL
22 ESTABLISH AND MAINTAIN A PUBLICLY ACCESSIBLE CENTRAL REPOSITORY
23 THAT INCLUDES EACH CROSS BOUNDARY MEMORANDUM OF AGREEMENT FORWARDED
24 TO IT UNDER SUBSECTION (2) OR (3). THE OFFICE OF THE GREAT SEAL
25 SHALL MAKE THE REPOSITORY ACCESSIBLE VIA THE INTERNET BY 1 YEAR
26 AFTER THE OFFICE OF THE GREAT SEAL OR ITS ASSIGNEES OR SUCCESSORS
27 MAKE INTERLOCAL AGREEMENTS CREATED UNDER THE URBAN COOPERATION ACT

1 OF 1967, 1967 (EX SESS) PA 7, MCL 124.501 TO 124.512, ACCESSIBLE TO
2 THE PUBLIC VIA THE INTERNET.

3 (5) THIS SECTION DOES NOT REQUIRE THE DISCLOSURE OF A PUBLIC
4 RECORD THAT IS OTHERWISE PROHIBITED BY LAW FROM PUBLIC DISCLOSURE,
5 IS PRIVILEGED, OR IS EXEMPT FROM DISCLOSURE UNDER THE FREEDOM OF
6 INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246. THIS SECTION
7 DOES NOT AND SHALL NOT BE CONSTRUED TO PROHIBIT OR PREEMPT FROM
8 PUBLIC DISCLOSURE ANY CROSS BOUNDARY MEMORANDUM OF AGREEMENT FOR
9 THE SOLE REASON THAT IT WAS EXECUTED BY THE GOVERNOR OR THE
10 LIEUTENANT GOVERNOR OR AN AGENT OR EMPLOYEE OF THE GOVERNOR OR
11 LIEUTENANT GOVERNOR.

12 (6) AS USED IN THIS ACT:

13 (A) "CROSS BOUNDARY MEMORANDUM OF AGREEMENT" MEANS A
14 MEMORANDUM OF AGREEMENT, MEMORANDUM OF UNDERSTANDING, MEMORANDUM OF
15 RECORD, COMPACT, OR SIMILAR AGREEMENT THAT A GOVERNMENTAL UNIT OF
16 THIS STATE PROPOSES TO ENTER INTO OR ENTERS INTO WITH THE FEDERAL
17 GOVERNMENT OR A UNIT OF GOVERNMENT LOCATED OUTSIDE OF THIS STATE.

18 (B) "GOVERNMENTAL UNIT" MEANS A STATE DEPARTMENT, AGENCY,
19 DIVISION, OR ANY OTHER ENTITY OR SUBUNIT DERIVED FROM THOSE PUBLIC
20 BODIES.

21 (7) THIS SECTION DOES NOT LIMIT, AND SHALL NOT BE CONSTRUED TO
22 LIMIT, THE ABILITY OF ANY GOVERNMENTAL UNIT TO CONDUCT AN INTERNAL
23 REVIEW OR TO SEEK LEGAL ADVICE FROM THE ATTORNEY GENERAL.

24 Enacting section 1. This amendatory act takes effect September
25 1, 2013.