

HOUSE BILL No. 5354

December 12, 2017, Introduced by Rep. Yaroch and referred to the Committee on Local Government.

A bill to amend 1978 PA 566, entitled

"An act to encourage the faithful performance of official duties by certain public officers and public employees; to prescribe standards of conduct for certain public officers and public employees; to prohibit the holding of incompatible public offices; and to provide certain judicial remedies,"

by amending section 3 (MCL 15.183), as amended by 2016 PA 196.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) Section 2 does not prohibit a public officer's or
2 public employee's appointment or election to, or membership on, a
3 governing board of an institution of higher education. However, a
4 public officer or public employee shall not be a member of
5 governing boards of more than 1 institution of higher education
6 simultaneously, and a public officer or public employee shall not
7 be an employee and member of a governing board of an institution of
8 higher education simultaneously.

9 (2) Section 2 does not prohibit a member of a school board of

1 1 school district from being a superintendent of another school
2 district.

3 (3) Section 2 does not prohibit a public officer or public
4 employee of a city, village, township, school district, community
5 college district, or county from being appointed to and serving as
6 a member of the board of a tax increment finance authority under
7 the tax increment finance authority act, 1980 PA 450, MCL 125.1801
8 to 125.1830; a downtown development authority under 1975 PA 197,
9 MCL 125.1651 to 125.1681; a local development finance authority
10 under the local development financing act, 1986 PA 281, MCL
11 125.2151 to 125.2174; a brownfield redevelopment authority under
12 the brownfield redevelopment financing act, 1996 PA 381, MCL
13 125.2651 to ~~125.2672~~, **125.2670**; a housing commission created under
14 1933 (Ex Sess) PA 18, MCL 125.651 to 125.709c; a neighborhood
15 improvement authority under the neighborhood improvement authority
16 act, 2007 PA 61, MCL 125.2911 to 125.2932; a water resource
17 improvement tax increment finance authority under the water
18 resource improvement tax increment finance authority act, 2008 PA
19 94, MCL 125.1771 to 125.1793; a historical neighborhood tax
20 increment finance authority under the historical neighborhood tax
21 increment finance authority act, 2004 PA 530, MCL 125.2841 to
22 125.2866; a member of a board of a principal shopping district or a
23 member of a board of directors of a business improvement zone under
24 1961 PA 120, MCL 125.981 to 125.990n; an officer of a metropolitan
25 district under the metropolitan district act, 1929 PA 312, MCL
26 119.1 to 119.18; a member of a board of directors of a land bank
27 fast track authority under the land bank fast track act, 2003 PA

1 258, MCL 124.751 to 124.774; or a corridor improvement authority
2 under the corridor improvement authority act, 2005 PA 280, MCL
3 125.2871 to 125.2899.

4 (4) Section 2 does not do any of the following:

5 (a) Prohibit public officers or public employees of a city,
6 village, township, or county having a population of less than
7 40,000 from serving, with or without compensation, as emergency
8 medical services personnel as **THAT TERM IS** defined in section 20904
9 of the public health code, 1978 PA 368, MCL 333.20904.

10 (b) Prohibit public officers or public employees of a city,
11 village, township, or county having a population of less than
12 40,000 from serving, with or without compensation, as a
13 firefighter, police chief, fire chief, police officer, or public
14 safety officer in that city, village, township, or county if that
15 firefighter, police chief, fire chief, police officer, or public
16 safety officer is not a person who negotiates a collective
17 bargaining agreement with the city, village, township, or county on
18 behalf of the firefighters, police chiefs, fire chiefs, police
19 officers, or public safety officers.

20 (c) Limit the authority of the governing body of a city,
21 village, township, or county having a population of less than
22 40,000 to authorize a public officer or public employee to perform,
23 with or without compensation, other additional services for the
24 unit of local government.

25 (5) This section does not relieve a person from otherwise
26 meeting statutory or constitutional qualifications for eligibility
27 to, or the continued holding of, a public office.

1 (6) This section does not allow or sanction activity
2 constituting conflict of interest prohibited by the constitution or
3 laws of this state.

4 (7) This section does not allow or sanction specific actions
5 taken in the course of performance of duties as a public official
6 or as a member of a governing body of an institution of higher
7 education that would result in a breach of duty as a public officer
8 or board member.

9 (8) Section 2 does not prohibit a public officer or public
10 employee of a community mental health services program as defined
11 in section 100a of the mental health code, 1974 PA 258, MCL
12 330.1100a, from serving as a public officer or public employee of a
13 separate legal or administrative entity created by 2 or more
14 community mental health services programs under the urban
15 cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to
16 124.512, a joint board or commission created under 1967 (Ex Sess)
17 PA 8, MCL 124.531 to 124.536, or a regional entity created under
18 section 204b of the mental health code, 1974 PA 258, MCL 330.1204b,
19 whether or not the separate legal or administrative entity, joint
20 board or commission, or regional entity may enter into contracts or
21 agreements with 1 or more of the community mental health services
22 programs.

23 (9) Section 2 does not prohibit a member of a school board
24 from being appointed to or serving as a volunteer coach or
25 supervisor of a student extracurricular activity if all of the
26 following conditions are present:

27 (a) The school board member receives no compensation for

1 service as a volunteer coach or supervisor.

2 (b) During the period he or she serves as a volunteer, the
3 school board member abstains from voting on issues before the
4 school board concerning that program.

5 (c) There is no qualified applicant available to fill a vacant
6 position if the school board member is excluded.

7 (d) The appointing authority has received the results of a
8 criminal history check and a criminal records check from the
9 department of state police or the Federal Bureau of Investigation
10 for the school board member.

11 (10) Section 2 does not prohibit a superintendent of an
12 intermediate school district from serving simultaneously as
13 superintendent of a local school district, or prohibit an
14 intermediate school district from contracting with another person
15 to serve as superintendent of a local school district, even if the
16 local school district is a constituent district of the intermediate
17 school district. As used in this subsection, "constituent district"
18 means that term as defined in section 3 of the revised school code,
19 1976 PA 451, MCL 380.3.

20 (11) Section 2 does not prohibit a public officer or public
21 employee of an authority created under the public transportation
22 authority act, 1986 PA 196, MCL 124.451 to 124.479, from serving as
23 a public officer or public employee of another public
24 transportation authority if each public transportation authority
25 has members consisting of identical political subdivisions.

26 (12) Section 2 does not prohibit a township supervisor from
27 being appointed as a member of a county board of public works as

1 provided in section 2(2)(c) of 1957 PA 185, MCL 123.732.

2 (13) Section 2 does not prohibit the mayor, the chief
3 executive officer, or a member of the governing body of a qualified
4 city, or the superintendent or chairperson of a qualified school
5 district, from serving as a member of a financial review commission
6 for that qualified city or qualified school district, or both, as
7 established under the Michigan financial review commission act,
8 2014 PA 181, MCL 141.1631 to 141.1643. As used in this subsection,
9 "qualified city" and "qualified school district" mean those terms
10 as defined in section 3 of the Michigan financial review commission
11 act, 2014 PA 181, MCL 141.1633.

12 (14) Section 2 does not prohibit an emergency manager, **OR ANY**
13 **MEMBER OF A FINANCIAL MANAGEMENT TEAM**, appointed under the local
14 financial stability and choice act, 2012 PA 436, MCL 141.1541 to
15 141.1575, from serving as a transition manager under section 12b or
16 part 5b of the revised school code, 1976 PA 451, MCL 380.12b and
17 380.381 to 380.396.

18 Enacting section 1. This amendatory act takes effect 90 days
19 after the date it is enacted into law.

20 Enacting section 2. This amendatory act does not take effect
21 unless Senate Bill No.____ or House Bill No. 5337 (request no.
22 03826'17) of the 99th Legislature is enacted into law.