

# Legislative Analysis

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## INCOMPATIBLE PUBLIC OFFICES ACT

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**House Bill 6243 (Substitute H-1)**

**Sponsor: Rep. Fran Amos**

**Committee: Intergovernmental, Urban, and Regional Affairs**

**First Analysis (9-10-08)**

**BRIEF SUMMARY:** The bill would allow a public officer or employee to serve on any of several authorities or districts that have been created by law, including a Neighborhood Improvement Authority, a Water Resource Improvement Tax Increment Finance Authority; an Historical Neighborhood Tax Increment Finance Authority; a Principal Shopping District; a Business Improvement Zone; a Metropolitan District; a Land Bank Fast Track Authority; or a Corridor Improvement Authority.

**FISCAL IMPACT:** The bill should not have any significant state or local fiscal impacts.

### **THE APPARENT PROBLEM:**

The Township of Waterford in Oakland County recently established a Corridor Improvement Authority, to which township officials appointed public officers and employees.

Since 1978, Michigan law has prohibited publicly elected and appointed officials from holding incompatible public offices, in order to avoid conflicts of interest. Although the law does not expressly forbid the appointment of public officers and employees to Corridor Improvement Authorities, neither does the law allow such appointments. The officials of Waterford Township have feared they may be serving in violation of the law.

Legislation has been proposed that would allow the appointment of public officials to the boards of eight different community improvement authorities, districts, or zones created in state statute, including Corridor Improvement Authorities.

### **THE CONTENT OF THE BILL:**

House Bill 6243 would amend Public Act 566 of 1978, which prohibits elected and appointed officials from holding incompatible public offices, to allow a public officer or public employee to be appointed to and serve on any of several authorities or districts that have been created by law, including a Neighborhood Improvement Authority, a Water Resource Improvement Tax Increment Finance Authority; an Historical Neighborhood Tax Increment Finance Authority; a Principal Shopping District; a Business Improvement Zone; a Metropolitan District; a Land Bank Fast Track Authority; or a Corridor Improvement Authority.

Currently under the law, a public officer or public employee may, under certain conditions, be appointed or elected to the governing board of an institution of higher education or a school board, or appointed to a Tax Increment Finance Authority, a Downtown Development Authority, a Local Development Finance Authority, or a Brownfield Redevelopment Authority. House Bill 6243 would retain all of these provisions, and also specify that a public officer or public employee could be appointed to and serve on the authorities, districts, and boards noted above.

MCL15.183

***ARGUMENTS:***

***For:***

Currently the Incompatible Public Offices Act allows the appointment of publicly elected and appointed officials to local Tax Increment Finance Authorities, Downtown Development Authorities, Local Development Finance Authorities, and Brownfield Redevelopment Authorities. This bill represents a consistent application of that policy. It would extend the boards to which publicly elected and appointed officials could be appointed to include Neighborhood Improvement Authorities, Water Resource Improvement Tax Increment Finance Authorities; Historical Neighborhood Tax Increment Finance Authorities; Principal Shopping Districts; Business Improvement Zones; Metropolitan Districts; Land Bank Fast Track Authorities; and Corridor Improvement Authorities--all created by state statute in order to improve communities.

***Against:***

Generally, overlapping boards of directors in either the public or private sectors should be avoided in order to avoid even the appearance of impropriety among office-holders.

Possible conflicts of interest arise when publicly elected or appointed officials also serve on the boards of local authorities whose funding and purpose depend upon decisions made by elected officials. For example, a city mayor serving on a Tax Increment Finance Authority could exercise undue influence among city council members in efforts that advance the TIF's agenda, at a cost to taxpayers citywide. The mayor's membership on the TIF might well stymie disagreement that would otherwise be expressed by citizens or by professional staff such as economists or land use planners working at city hall.

***POSITIONS:***

The Michigan Municipal League supports the bill as amended. (9-10-08)

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■ 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.