

Legislative Analysis



OATH OF OFFICE ADMINISTERED BY TOWNSHIP SUPERVISOR

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House Bill 4115 as reported without amendment

Sponsor: Rep. Nancy Jenkins

Committee: Redistricting and Elections

First Analysis (10-26-11)

BRIEF SUMMARY: The bill would allow a township supervisor to administer the 'oath of office' to township officers.

FISCAL IMPACT: The bill would not appear to have a significant fiscal impact.

THE APPARENT PROBLEM:

Publicly elected and appointed governmental officials throughout Michigan, including township officials, are required to take an official oath of office.

The official 'oath of office' is found in Section 1 of Article XI of the State Constitution of 1963. That section of the State Constitution reads:

All officers, legislative, executive and judicial, before entering upon the duties of their respective offices, shall take and subscribe the following oath or affirmation: *I do solemnly swear (or affirm) that I will support the Constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of according to the best of my ability.* The State Constitution also prescribes that "No other oath, affirmation, or any religious test shall be required as a qualification for any office or public trust."

According to information from the Michigan Township Association, the following officials currently have the statutory authority to administer oaths to township officials: the township clerk or deputy (MCL 168.363), the county clerk or deputy (MCL 45.323 & 551.103), a notary public (MCL 55.285 & 168.504), a judge or justice of any court of record (MCL 15.37, 600.1440, 600.1455, & 600.8317), a state senator (MCL 4.121), or a state representative (MCL 4.121). See "Oath of Office," Michigan Townships Association (Revised November 2008).

The current law does not explicitly allow township supervisors to administer the oath of office to other officers in the township, although some do, assuming that their authority as the chief executives in their jurisdictions encompasses this commonsense practice.

At the request of the Michigan Townships Association, legislation has been introduced to allow township supervisors to administer the official oath of office to other township officers.

THE CONTENT OF THE BILL:

House Bill 4115 would amend RS 16 of 1846 (MCL 41.64b), which concerns the election and duties of township officers, in order to allow a township supervisor to administer the 'oath of office' to township officers.

ARGUMENTS:

For:

Currently township officials cannot be sworn into office by the township supervisor. Instead, the law requires that other officials administer the constitutionally mandated oath of office to newly elected township officials. Statutory provisions currently allow the oath of office to be administered by township and county clerks, notaries public, judges, state senators, and state representatives. Since the township supervisor is the chief executive within a township, administering the official oath of office should fall within the supervisor's authority--both as a matter of convenience, and of appropriate protocol.

POSITIONS:

The Michigan Townships Association supports the bill. (9-27-11)

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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.