

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4116

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.

1 (C) FOR A CROSS BOUNDARY MEMORANDUM OF AGREEMENT THAT APPEARS
2 TO BE A LEGALLY BINDING OR ENFORCEABLE AGREEMENT, A WRITTEN FULL
3 REVIEW THAT INCLUDES BOTH OF THE FOLLOWING CONSIDERATIONS:

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

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

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

15 (3) THE OFFICE OF THE GREAT SEAL SHALL ACCEPT AND OFFICIALLY
16 FILE A CROSS BOUNDARY MEMORANDUM OF AGREEMENT. BY SEPTEMBER 1,
17 2014, EACH STATE GOVERNMENTAL UNIT SHALL FORWARD A COPY OF ANY
18 CROSS BOUNDARY MEMORANDUM OF AGREEMENT THAT IT ENTERED INTO BEFORE
19 SEPTEMBER 1, 2012, AND THAT IS LEGALLY BINDING AND STILL IN EFFECT,
20 TO THE OFFICE OF THE GREAT SEAL FOR INCLUSION IN THE CENTRAL
21 REPOSITORY CREATED IN SUBSECTION (4).

22 (4) BY SEPTEMBER 1, 2012, THE OFFICE OF THE GREAT SEAL SHALL
23 ESTABLISH AND MAINTAIN A PUBLICLY ACCESSIBLE CENTRAL REPOSITORY
24 THAT INCLUDES EACH CROSS BOUNDARY MEMORANDUM OF AGREEMENT FORWARDED
25 TO IT UNDER SUBSECTION (2) OR (3). THE OFFICE OF THE GREAT SEAL
26 SHALL MAKE THE REPOSITORY ACCESSIBLE VIA THE INTERNET BY 1 YEAR
27 AFTER THE OFFICE OF THE GREAT SEAL OR ITS ASSIGNEES OR SUCCESSORS

1 MAKE INTERLOCAL AGREEMENTS CREATED UNDER THE URBAN COOPERATION ACT
2 OF 1967, 1967 (EX SESS) PA 7, MCL 124.501 TO 124.512, ACCESSIBLE TO
3 THE PUBLIC VIA THE INTERNET.

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

13 (6) AS USED IN THIS ACT:

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

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

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

25 Enacting section 1. This amendatory act takes effect September
26 1, 2012.