

# Legislative Analysis



## INCOMPATIBLE OFFICES: EXCEPTIONS FOR CERTAIN PUBLIC SAFETY OFFICERS

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**House Bill 4070 (reported from committee as H-2)**

**Sponsor: Rep. Kurt Heise**

**Committee: Oversight and Ethics**

**Complete to 5-14-15**

Analysis available at  
<http://www.legislature.mi.gov>

### SUMMARY:

The bill would amend Public Act 566 of 1978, which prescribes standards of conduct for public officers and employees and prohibits the holding of incompatible offices. Section 2 of the act says, "*except as prohibited in Section 3, a public officer or public employee shall not hold two or more incompatible offices at the same time,*" and then Section 3 describes numerous exceptions to this general policy in detail. House Bill 4070 would modify those exceptions in cases involving public safety offices, but only until January 1, 2022. After that date this section of law would return to the state it was in before the amendments made by House Bill 4070.

\*\* The bill would allow a public officer or public employee of a city, village, township, or county with a population under 30,000 to serve as a firefighter, police chief, fire chief, police officer, or public safety officer, with or without compensation, as long as he or she was not a person who negotiated a collective bargaining agreement on behalf of firefighters, police chiefs, fire chiefs, police officers, or public safety officers.

Currently, the exception in the act only applies to locales with a population under 25,000, and only allows officials or employees to serve as firefighters, and only as long as they are not full-time firefighters, fire chiefs, or negotiators.

\*\* Currently, the act does not prohibit public officers or public employees of a city, village, township, or county with a population under 25,000 from serving, with or without compensation, as emergency medical services personnel. The bill would increase the population threshold to 30,000.

\*\* Currently, the act says it does not limit the authority of the governing board of a city, village, township, or county with a population under 25,000 to authorize a public officer or public employee to perform other additional services for the local unit, with or without compensation. The bill would increase the population threshold to 30,000.

\*\* The bill also would delete a provision that prohibits a public officer or public employee of a city, village, township, or county with a population under 3,000 from serving as fire chief. That provision would be rendered obsolete by other provisions in the bill. However, this provision would be re-enacted as of January 1, 2022.

## **BACKGROUND INFORMATION:**

Public Act 566 of 1978 defines "incompatible offices" as public offices held by a public official that, when he or she is performing the duties of any of the offices, results in the subordination of one public office to another, the supervision of one public office by another, or a breach of duty of public office.

The term "public officer" means a person who is elected or appointed to any of the following: (1) an office established by the State Constitution of 1963; (2) a public office of a city, village, township, or county in this state; or (3) a department, board, agency, institution, commission, authority, division, council, college, university, school district, intermediate school district, special district, or other public entity of this state or a city, village, township, or county in this state.

The term "public employee" means an employee of the state; an employee of a city, village, township, or county of this state; or an employee of a department, board, agency, institution, commission, authority, division, council, college, university, school district, intermediate school district, special district, or other public entity of this state or of a city, village, township, or county in this state, but does not include a person whose employment results from election or appointment.

## **FISCAL IMPACT:**

As written, the bill could decrease expenditures for governmental units with a population of less than 30,000, should they choose to consolidate positions. There would be no impact on state revenues or expenses.

## **POSITIONS:**

The Michigan Municipal League and the Michigan Townships Association indicated support for the bill. (5-7-15)

The mayor of Garden City testified in support of the bill. (3-19-15)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.