

**SUBSTITUTE FOR
HOUSE BILL NO. 4070**

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 2014 PA 190.

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

1 higher education simultaneously.

2 (2) Section 2 does not prohibit a member of a school board of
3 1 school district from being a superintendent of another school
4 district.

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

1 member of a board of directors of a land bank fast track authority
 2 under the land bank fast track act, 2003 PA 258, MCL 124.751 to
 3 124.774; or a corridor improvement authority under the corridor
 4 improvement authority act, 2005 PA 280, MCL 125.2871 to 125.2899.

5 (4) **THIS SUBSECTION APPLIES BEFORE JANUARY 1, 2022.** Section 2
 6 does not do any of the following:

7 (a) Prohibit public officers or public employees of a city,
 8 village, township, or county having a population of less than
 9 ~~25,000~~**30,000** from serving, with or without compensation, as
 10 emergency medical services personnel as defined in section 20904 of
 11 the public health code, 1978 PA 368, MCL 333.20904.

12 (b) Prohibit public officers or public employees of a city,
 13 village, township, or county having a population of less than
 14 ~~25,000~~**30,000** from serving, with or without compensation, as a
 15 firefighter, **POLICE CHIEF, FIRE CHIEF, POLICE OFFICER, OR PUBLIC**
 16 **SAFETY OFFICER** in that city, village, township, or county if that
 17 firefighter, **POLICE CHIEF, FIRE CHIEF, POLICE OFFICER, OR PUBLIC**
 18 **SAFETY OFFICER** is not ~~any of the following:~~

19 ~~—— (i) A full time firefighter.~~

20 ~~—— (ii) A fire chief.~~

21 ~~—— (iii) A~~**A** person who negotiates **A COLLECTIVE BARGAINING**
 22 **AGREEMENT** with the city, village, township, or county on behalf of
 23 the firefighters, **POLICE CHIEFS, FIRE CHIEFS, POLICE OFFICERS, OR**
 24 **PUBLIC SAFETY OFFICERS.**

25 (c) Limit the authority of the governing body of a city,
 26 village, township, or county having a population of less than
 27 ~~25,000~~**30,000** to authorize a public officer or public employee to

1 perform, with or without compensation, other additional services
2 for the unit of local government.

3 ~~—— (d) Prohibit a public officer or public employee of a city,
4 village, township, or county having a population of less than 3,000
5 from serving, with or without compensation, as a fire chief in that
6 city, village, township, or county.~~

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

10 (6) This section does not allow or sanction activity
11 constituting conflict of interest prohibited by the constitution or
12 laws of this state.

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

18 (8) Section 2 does not prohibit a public officer or public
19 employee of a community mental health services program as defined
20 in section 100a of the mental health code, 1974 PA 258, MCL
21 330.1100a, from serving as a public officer or public employee of a
22 separate legal or administrative entity created by 2 or more
23 community mental health services programs under the urban
24 cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to
25 124.512, a joint board or commission created under 1967 (Ex Sess)
26 PA 8, MCL 124.531 to 124.536, or a regional entity created under
27 section 204b of the mental health code, 1974 PA 258, MCL 330.1204b,

1 whether or not the separate legal or administrative entity, joint
2 board or commission, or regional entity may enter into contracts or
3 agreements with 1 or more of the community mental health services
4 programs.

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

9 (a) The school board member receives no compensation for
10 service as a volunteer coach or supervisor.

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

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

16 (d) The appointing authority has received the results of a
17 criminal history check and a criminal records check from the
18 department of state police or the federal bureau of investigation
19 for the school board member.

20 (10) Section 2 does not prohibit a superintendent of an
21 intermediate school district from serving simultaneously as
22 superintendent of a local school district, or prohibit an
23 intermediate school district from contracting with another person
24 to serve as superintendent of a local school district, even if the
25 local school district is a constituent district of the intermediate
26 school district. As used in this subsection, "constituent district"
27 means that term as defined in section 3 of the revised school code,

1 1976 PA 451, MCL 380.3.

2 (11) Section 2 does not prohibit a public officer or public
3 employee of an authority created under the public transportation
4 authority act, 1986 PA 196, MCL 124.451 to 124.479, from serving as
5 a public officer or public employee of another public
6 transportation authority if each public transportation authority
7 has members consisting of identical political subdivisions.

8 (12) Section 2 does not prohibit a township supervisor from
9 being appointed as a member of a county board of public works as
10 provided in section 2(2)(c) of 1957 PA 185, MCL 123.732.

11 (13) Section 2 does not prohibit the mayor, the chief
12 executive officer, or a member of the governing body of a qualified
13 city from serving as a member of a financial review commission for
14 that qualified city as established under the Michigan financial
15 review commission act, **2014 PA 181, MCL 141.1631 TO 141.1643**. As
16 used in this subsection, "qualified city" means that term as
17 defined in section 3 of the Michigan financial review commission
18 act, **2014 PA 181, MCL 141.1633**.

19 **(14) THIS SUBSECTION APPLIES BEGINNING JANUARY 1, 2022.**
20 **SECTION 2 DOES NOT DO ANY OF THE FOLLOWING:**

21 **(A) PROHIBIT PUBLIC OFFICERS OR PUBLIC EMPLOYEES OF A CITY,**
22 **VILLAGE, TOWNSHIP, OR COUNTY HAVING A POPULATION OF LESS THAN**
23 **25,000 FROM SERVING, WITH OR WITHOUT COMPENSATION, AS EMERGENCY**
24 **MEDICAL SERVICES PERSONNEL AS DEFINED IN SECTION 20904 OF THE**
25 **PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.20904.**

26 **(B) PROHIBIT PUBLIC OFFICERS OR PUBLIC EMPLOYEES OF A CITY,**
27 **VILLAGE, TOWNSHIP, OR COUNTY HAVING A POPULATION OF LESS THAN**

1 25,000 FROM SERVING, WITH OR WITHOUT COMPENSATION, AS A FIREFIGHTER
2 IN THAT CITY, VILLAGE, TOWNSHIP, OR COUNTY IF THAT FIREFIGHTER IS
3 NOT ANY OF THE FOLLOWING:

4 (i) A FULL-TIME FIREFIGHTER.

5 (ii) A FIRE CHIEF.

6 (iii) A PERSON WHO NEGOTIATES WITH THE CITY, VILLAGE, TOWNSHIP,
7 OR COUNTY ON BEHALF OF THE FIREFIGHTERS.

8 (C) LIMIT THE AUTHORITY OF THE GOVERNING BODY OF A CITY,
9 VILLAGE, TOWNSHIP, OR COUNTY HAVING A POPULATION OF LESS THAN
10 25,000 TO AUTHORIZE A PUBLIC OFFICER OR PUBLIC EMPLOYEE TO PERFORM,
11 WITH OR WITHOUT COMPENSATION, OTHER ADDITIONAL SERVICES FOR THE
12 UNIT OF LOCAL GOVERNMENT.

13 (D) PROHIBIT A PUBLIC OFFICER OR PUBLIC EMPLOYEE OF A CITY,
14 VILLAGE, TOWNSHIP, OR COUNTY HAVING A POPULATION OF LESS THAN 3,000
15 FROM SERVING, WITH OR WITHOUT COMPENSATION, AS A FIRE CHIEF IN THAT
16 CITY, VILLAGE, TOWNSHIP, OR COUNTY.

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