

Legislative Analysis



REMOVAL OF CERTAIN LOCAL ELECTED OFFICIALS

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<http://www.house.mi.gov/hfa>

House Bill 4884 as introduced
Sponsor: Rep. Steve Marino

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

House Bill 4885 as introduced
Sponsor: Rep. Jeff Yaroeh

Committee: Local Government and Municipal Finance
Complete to 1-31-22

SUMMARY:

House Bills 4884 and 4885 would amend the Revised School Code and the Michigan Election Law, respectively, to change and make uniform the process through which the governor can remove from office certain elected officers of political subdivisions.

Section 33 of Article VII of the state constitution provides that “Any elected officer of a political subdivision may be removed from office in the manner and for the causes provided by law.” This provision has been implemented by the legislature with regard to certain local elected officers.¹ The Revised School Code addresses the removal from office of members of school boards and intermediate school boards. The Michigan Election Law addresses the removal of the following local officers:

- County clerks.
- County treasurers.
- Registers of deeds.
- Prosecuting attorneys.
- Sheriffs.
- County surveyors.
- Drain commissioners.
- County road commissioners.
- Elected city, village, and township officers.

The bills would amend both acts to provide for a uniform procedure to apply in all cases. This new procedure is described first below, followed by comparisons to current law.

Procedure proposed by the bills

The bills would authorize the governor to remove an individual from office if the governor is satisfied from the evidence submitted that the officer is guilty of gross neglect of duty, corrupt conduct in office, or any other misfeasance or malfeasance in office. However, the following procedures would have to be followed before that removal:

- Written charges would have to be submitted to the governor that specify the grounds for removal, along with any supporting evidence and the affidavit of the person making the charges verifying that he or she believes them to be true.

¹ According to the Michigan Law Revision Commission, no law has been enacted regarding the removal of county executives, members of community college boards, or members of boards created under the Urban Cooperation Act.

- Within 10 days after receiving the charges, the governor would have to serve or cause to be served a copy of the charges on the officer as follows:
 - If the officer can be found, by handing the officer a copy of the charges and any accompanying affidavits or exhibits.
 - If the officer cannot be found, by leaving a copy of the charges and any accompanying affidavits or exhibits with someone of suitable age at the officer's last known place of residence or, if no one of suitable age is available, by posting the copy in a conspicuous place at that place of residence.
- The officer would have to have at least 10 days after service is made to respond to the charges.
- Within 60 days after receiving the charges, the governor would have to do both of the following:
 - Review the charges to determine whether the evidence supports a finding of gross neglect of duty, corrupt conduct in office, or any other misfeasance or malfeasance in office by the officer.
 - Notify the individual making the charges of the above determination.

The governor could consider the determination described above in exercising his or her duties under any law of this state relating to the removal of a local elected officer.

An individual removed from office under these provisions would not be eligible for election or appointment to any office for three years after the date of removal.

Revised School Code (House Bill 4884)

The provisions in the Revised School Code that currently govern removal of school board members and intermediate school board members are similar to those proposed by HB 4884, with the following differences:

- HB 4884 would require the governor to serve a copy of the charges on the board member within 10 days after receiving them. The law currently provides that a copy of the charges must be served, with no time frame and no indication of who is responsible for serving them or having them served.
- HB 4884 would provide that the board member must have at least 10 days to respond to the charges. The law currently provides that the member must be given an opportunity to respond to them, with no time frame indicated.
- HB 4884 would newly add the requirement that, within 60 days after receiving the charges, the governor must review them, make a determination regarding them, and notify the person making the charges of the determination, as well as the provision that would allow the governor to consider that determination in exercising his or her powers and duties relating to removal of a school board or intermediate school board member.

Michigan Election Law (House Bill 4885)

The provisions in the Michigan Election Law that currently govern removal of specified local officers are broadly similar to those proposed by HB 4885, with the following differences:

- Under HB 4885, the governor would be allowed to remove officers for the specified reasons. This discretion applies regarding county officials under current law. However, for city, township, and village officers, the governor is now required to remove them if satisfied by the evidence.
- Under HB 4885, an officer could be removed for gross neglect of duty, corrupt conduct in office, or any other misfeasance or malfeasance in office. Currently, an officer is

subject to removal for official misconduct, willful neglect of duty, extortion, habitual drunkenness, or a conviction of being drunk or for a felony conviction that occurred after the officer was elected or appointed.

- HB 4885 would require the governor to serve a copy of the charges on the officer within 10 days after receiving them. The law currently provides that a copy of the charges must be served on officer, with no time frame and no indication of who is responsible for serving them or having them served.
- HB 4885 would provide that the officer must have at least 10 days to respond to the charges. The law currently provides that the officer must be given an opportunity to be heard in his or her defense, with no time frame indicated.
- HB 4885 would newly add the requirement that, within 60 days after receiving the charges, the governor must review them, make a determination regarding them, and notify the person making the charges of the determination, as well as the provision that would allow the governor to consider that determination in exercising his or her powers and duties relating to removal of the officer.
- With regard to city officers, the law now provides that a person convicted of providing test answers for a county civil service examination is ineligible to hold an elective or appointive city office for 20 years after the conviction. This prohibition was added following a 1982 investigation of allegations to that effect in Wayne County. The bill would remove this provision.

MCL 380.619 and 380.1107 (HB 4884)

MCL 168.207 et seq. (HB 4885)

FISCAL IMPACT:

House Bill 4884 could create administrative costs for the state, specifically the executive office, from dedicating time and resources necessary to review any charges and evidence submitted to the governor. Costs would likely be minimal and absorbed using existing staff time. The bill would have no fiscal impact on local school districts, ISDs, or public school academies (PSAs).

House Bill 4885 could create administrative costs for the state, specifically the executive office, from dedicating time and resources necessary to review any charges and evidence submitted to the governor. Costs would likely be minimal and absorbed using existing staff time. The bill would not result in additional costs to local governments except to the extent that they choose to pursue the removal of a local officer and incur costs related to gathering evidence or legal counsel. Costs would likely be minimal and absorbed using existing staff time.

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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.