

SUSPENDING LEGISLATOR PAY; IMMEDIATE EFFECT

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House Joint Resolution D (H-1) as reported from committee

Sponsor: Rep. Donna Lasinski
Committee: Elections and Ethics
Complete to 6-8-21

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

SUMMARY:

House Joint Resolution D would allow the House and Senate to suspend the salary and expense allowances of a member for specified reasons. It would also require a record roll call vote to give immediate effect to a bill.

Suspension of salary and expense allowance

Article IV (Legislative Branch) of the Michigan Constitution of 1963 states that each house is the sole judge of the qualifications, elections, and returns of its members and may expel a member pursuant to a 2/3 vote of its members.

The joint resolution would provide another option short of expulsion. It would allow a house to suspend part or all of a member's salary and expense allowances if 2/3 of its members vote that the member acted unethically or was excessively absent from regular session.

Immediate effect

Absent immediate effect, a bill passed by both houses and signed by the governor now takes effect 90 days after the end of the session at which it was enacted. The joint resolution would provide that enacted bills take effect either 90 days after the end of the session or 90 days from the date of enactment, whichever is sooner. Additionally, the joint resolution would require that the record of the vote and the names of members of either house voting on the question of immediate effect be entered into the house's respective journal.

Section 27 of Article IV already provides that a bill may be given immediate effect upon a 2/3 vote by members of each house. However, while in the Senate the names of those voting on the measure (and the record of the vote) are recorded, the House leaves the determination of a 2/3 majority to the presiding officer. House Rule 55 provides that a motion for immediate effect must be made orally after recognition by the presiding officer. Then, the presiding officer is the sole arbiter of whether there is a 2/3 majority in favor of the motion.¹

Procedure for a joint resolution

In order to amend the constitution, a joint resolution must be passed by a 2/3 majority of both houses of the legislature and then approved by the electorate at the next general election after the adoption of the resolution. General elections are held in November of even-numbered years. (Joint resolutions are not considered by the governor).

¹ https://cremich.org/wp-content/uploads/use_immediate_effect_michigan-2015.pdf

BACKGROUND:

In 2012, six members of the House of Representatives sued in state court to stop two recently enacted laws from taking immediate effect. Arguing that they had produced the 20% support required for a record roll call vote for immediate effect (instead of the “rising vote” typically employed), the plaintiffs sought a preliminary injunction. The Ingham County Circuit Court granted the motion, but it was reversed by the state Court of Appeals,² and the Michigan Supreme Court declined to hear the appeal. Accordingly, the House’s customary procedure for immediate effect has endured.

In its ruling, the Court of Appeals wrote that “the plain language of §27 [of the state constitution] does not specifically mandate or require the taking of a record roll call vote. Because other sections of the Constitution do specifically provide for a roll call vote...we are led to conclude that the omission of any reference to a roll call vote in §27 was intentional.”

FISCAL IMPACT:

To the extent that the joint resolution resulted in the suspension of legislator pay or expenses, legislative costs would be reduced. Any cost reduction would correspond to the scope and number of suspensions under the provisions of the joint resolution. Cost reductions in any fiscal year likely would be minimal. Legislators receive an annual salary of \$71,685 and annual expenses of up to \$10,800.

POSITIONS:

Voters Not Politicians indicated a neutral position on the bill. (5-11-21)

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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.

² *Hammel v Speaker of the House of Representatives*, Docket No. 309484 (Decided August 16, 2012)
[http://publicdocs.courts.mi.gov/opinions/final/coa/20120816_c309484\(42\)_rptr_114o-309484-final.pdf](http://publicdocs.courts.mi.gov/opinions/final/coa/20120816_c309484(42)_rptr_114o-309484-final.pdf)