

HOUSE BILL NO. 5152

June 24, 2021, Introduced by Reps. Tyrone Carter, O'Malley and Yaroach and referred to the Committee on Government Operations.

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 2017 PA 208.

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

governing board of an institution of higher education. However, a public officer or public employee shall not be a member of governing boards of more than 1 institution of higher education simultaneously, and a public officer or public employee shall not be an employee and member of a governing board of an institution of higher education simultaneously.

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

(3) Section 2 does not prohibit a public officer or public employee of a city, village, township, school district, community college district, or county from being appointed to and serving as a member of the board of a tax increment finance authority, ~~under the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830;~~ a downtown development authority, ~~under 1975 PA 197, MCL 125.1651 to 125.1681;~~ a local development finance authority, ~~under the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174;~~ **a neighborhood improvement authority, a water resource improvement tax increment finance authority, or a corridor improvement authority under the recodified tax increment financing act, 2018 PA 57, MCL 125.4101 to 125.4915;** a brownfield redevelopment authority under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2670; a housing commission created under 1933 (Ex Sess) PA 18, MCL 125.651 to 125.709c; ~~a neighborhood improvement authority under the neighborhood improvement authority act, 2007 PA 61, MCL 125.2911 to 125.2932;~~ a water resource improvement tax increment finance authority ~~under the water resource improvement tax increment finance authority act, 2008 PA 94, MCL 125.1771 to 125.1793;~~ a

~~1 historical neighborhood tax increment finance authority under the~~
~~2 historical neighborhood tax increment finance authority act, 2004~~
~~3 PA 530, MCL 125.2841 to 125.2866;~~ a member of a board of a
 4 principal shopping district or a member of a board of directors of
 5 a business improvement zone under 1961 PA 120, MCL 125.981 to
 6 125.990n; an officer of a metropolitan district under the
 7 metropolitan district act, 1929 PA 312, MCL 119.1 to 119.18; **or** a
 8 member of a board of directors of a land bank fast track authority
 9 under the land bank fast track act, 2003 PA 258, MCL 124.751 to
 10 124.774. ~~; or a corridor improvement authority under the corridor~~
~~11 improvement authority act, 2005 PA 280, MCL 125.2871 to 125.2899.~~

12 (4) Section 2 does not do any of the following:

13 (a) Prohibit public officers or public employees of a city,
 14 village, township, or county having a population of less than
 15 40,000 from serving, with or without compensation, as emergency
 16 medical services personnel as that term is defined in section 20904
 17 of the public health code, 1978 PA 368, MCL 333.20904.

18 (b) Prohibit public officers or public employees of a city,
 19 village, township, or county having a population of less than
 20 40,000 from serving, with or without compensation, as a
 21 firefighter, police chief, fire chief, police officer, or public
 22 safety officer in that city, village, township, or county if that
 23 firefighter, police chief, fire chief, police officer, or public
 24 safety officer is not a person who negotiates a collective
 25 bargaining agreement with the city, village, township, or county on
 26 behalf of the firefighters, police chiefs, fire chiefs, police
 27 officers, or public safety officers.

28 (c) Limit the authority of the governing body of a city,
 29 village, township, or county having a population of less than

1 40,000 to authorize a public officer or public employee to perform,
2 with or without compensation, other additional services for the
3 unit of local government.

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

7 (6) This section does not allow or sanction activity
8 constituting conflict of interest prohibited by the constitution or
9 laws of this state.

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

15 (8) Section 2 does not prohibit a public officer or public
16 employee of a community mental health services program as that term
17 is defined in section 100a of the mental health code, 1974 PA 258,
18 MCL 330.1100a, from serving as a public officer or public employee
19 of a separate legal or administrative entity created by 2 or more
20 community mental health services programs under the urban
21 cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to
22 124.512, a joint board or commission created under 1967 (Ex Sess)
23 PA 8, MCL 124.531 to 124.536, or a regional entity created under
24 section 204b of the mental health code, 1974 PA 258, MCL 330.1204b,
25 whether or not the separate legal or administrative entity, joint
26 board or commission, or regional entity may enter into contracts or
27 agreements with 1 or more of the community mental health services
28 programs.

29 (9) Section 2 does not prohibit a member of a school board

1 from being appointed to or serving as a volunteer coach or
2 supervisor of a student extracurricular activity if all of the
3 following conditions are present:

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

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

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

11 (d) The appointing authority has received the results of a
12 criminal history check and a criminal records check from the
13 department of state police or the Federal Bureau of Investigation
14 for the school board member.

15 (10) Section 2 does not prohibit a superintendent of an
16 intermediate school district from serving simultaneously as
17 superintendent of a local school district, or prohibit an
18 intermediate school district from contracting with another person
19 to serve as superintendent of a local school district, even if the
20 local school district is a constituent district of the intermediate
21 school district. As used in this subsection, "constituent district"
22 means that term as defined in section 3 of the revised school code,
23 1976 PA 451, MCL 380.3.

24 (11) Section 2 does not prohibit a public officer or public
25 employee of an authority created under the public transportation
26 authority act, 1986 PA 196, MCL 124.451 to 124.479, from serving as
27 a public officer or public employee of another public
28 transportation authority if each public transportation authority
29 has members consisting of identical political subdivisions.

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

(13) Section 2 does not prohibit the mayor, the chief executive officer, or a member of the governing body of a qualified city, or the superintendent or chairperson of a qualified school district, from serving as a member of a financial review commission for that qualified city or qualified school district, or both, as established under the Michigan financial review commission act, 2014 PA 181, MCL 141.1631 to 141.1643. As used in this subsection, "qualified city" and "qualified school district" mean those terms as defined in section 3 of the Michigan financial review commission act, 2014 PA 181, MCL 141.1633.

(14) Section 2 does not prohibit an emergency manager, **or any member of a financial management team**, appointed under the local financial stability and choice act, 2012 PA 436, MCL 141.1541 to 141.1575, from serving as a transition manager under section 12b or part 5b of the revised school code, 1976 PA 451, MCL 380.12b and 380.381 to 380.396.

(15) Section 2 does not apply to a member of the municipal stability board created under section 7 of the protecting local government retirement and benefits act, **2017 PA 202, MCL 38.2807**.

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

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. ____ or House Bill No. 5141 (request no. 00333'21) of the 101st Legislature is enacted into law.