



**House  
Legislative  
Analysis  
Section**

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**GOVERNMENT ETHICS**

**House Bill 4194 (Substitute H-2)  
First Analysis (3-3-93)**

**Sponsor: Rep. Pat Gagliardi  
Committee: House Oversight**

***THE APPARENT PROBLEM:***

Public confidence and trust in government depends partly on citizens believing that elected public officials exercise judgment and make decisions based on their honest assessment of what is in the public interest. All too often the public's perception is that decisions and actions are driven by so-called special interests whose influence derives from campaign contributions and special favors to public officials. Concern is also frequently expressed about conflicts of interests, where the personal private interest of a public official or close family member becomes entangled with questions of public policy. In defense of elected officials, however, it is a reality that elections cost money, that there are expenses unique to seeking and holding certain public offices, and that there are few alternatives currently to raising money from people who want to contribute. There is often a certain vagueness to the concept of "conflict of interest" that can make it difficult for officials to know how to conduct themselves. A number of proposals dealing with ethical issues have been discussed in recent years, some emphasizing the disclosure of information, some emphasizing the prohibition of certain kinds of conduct, some aiming to establish new and clearer standards for conduct. What is needed, many say, is to have a special body in each chamber examine the matter and come up with a code of conduct for its members.

***THE CONTENT OF THE BILL:***

The bill would create a new act to be known as the Legislative Ethics Act. It would create separate six-member ethics commissions in the House of Representatives and the Senate, each of which would be responsible for recommending a code of ethics for members of its respective chamber that prescribed standards of conduct for members and candidates along with a means of enforcing those standards.

The House commission would consist of the Co-Speakers (or, should one party have the majority,

the Speaker and the Minority Leader), plus two members from each caucus appointed by their respective leader. The Senate commission would have similar makeup, consisting of the majority and minority leaders and four additional members, two from each caucus.

Each commission would have six months to transmit its recommended code of ethics to either the Speaker (or Co-Speakers) or Majority Leader.

***FISCAL IMPLICATIONS:***

There is no information at present.

***ARGUMENTS:***

***For:***

The bill addresses ethical issues that face legislators and other public officials. It would create a special commission in each house of the legislature to develop standards that will provide a clearer guide to appropriate and inappropriate conduct, including presumably standards on conflict of interest. Legislative membership would mean that each commission was composed of people who well understood the number and variety of questions that can arise regarding perceived conflicts of interest. With each commission there would be a distinct locus of responsibility: the leaders of each party, who would be in the best position to carry out the aims of the bill and ensure that a well-thought-out code was developed within the six-month deadline. By placing the responsibility with leadership, the bill would ensure accountability and efficiency, minimizing the chances that the process will get bogged down.

***Response:***

Some have questioned the need for special commissions to develop ethics guidelines when both chambers have standing committees that can deal with such matters.

House Bill 4194 (3-3-93)

***Against:***

Some people, while not opposing the bill, would say it does not go far enough. The bill creates no standards, just the promise that there will be standards in the future. Standards have been proposed in other legislation and could have been included here. Some people support tighter restrictions on campaign contributions, for example requiring that a certain percentage of dollars raised come from small contributors. Some would require disclosure of all contributions and more meaningful disclosure of who supports various contributing committees. Others see public financing of elections as the only answer. Financial disclosure legislation, computerization of campaign finance records, the elimination of officeholder expense funds, all have been proposed.

***Response:***

The bill does not preclude other approaches or dealing with more comprehensive legislation later.

***Against:***

Some people are troubled by the fact that the proposed ethics commissions would be made up entirely of legislators. The commissions would have more credibility if they contained public members, or at least developed their codes through public discussion and comment. Further, ethics commissions made up solely of legislators could prove reluctant to judge their peers or could take partisan actions. And, some would ask, why not have one commission so that the legislative chambers will have the same standards?

***Response:***

The job of each commission would be to develop standards of conduct and means of enforcement. They could seek advice and get public input. The commissions might very well recommend that any enforcement body have public members to avoid the potential problems cited. But the commissions would not be sitting in judgment of anyone.

***POSITIONS:***

Common Cause of Michigan supports the concept of an independent ethics commission, but does not support having the commission composed solely of legislators. (3-2-93)

The Michigan Citizens Lobby supports the creation of an ethics code under firm deadlines, but urges that the bill contain provisions to ensure openness in the process and input from the public. (3-2-93)