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SFA



BILL ANALYSIS

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House Bill 4160 (Substitute H-1 as reported without amendment)
Sponsor: Representative Sue Rocca
House Committee: House Oversight and Ethics
Senate Committee: Government Operations

Date Completed: 10-26-98

RATIONALE

The Michigan Campaign Finance Act prohibits a legislator from accepting an honorarium. Under the Act, "honorarium" means a payment of money to a person holding elective office as consideration for an appearance, speech, article, or any activity related to or associated with the performance of duties as an elected official. An honorarium does not include reimbursement for the cost of transportation, accommodations, or meals; wages, salaries, or other employee compensation and expenses, authorized to be paid by the State or a political subdivision to the person holding elective office; or an award. Violators are guilty of a misdemeanor punishable by a fine of up to \$1,000, imprisonment for up to 90 days, or both. This prohibition was added to the Act in 1994; a similar ban was adopted at the Federal level for members of Congress. For several years prior to the Federal ban some members of Congress were criticized for accepting large speaking fees from interest groups and then voting favorably on issues that affected those interest groups. While there were not widespread reports of a similar problem involving members of the State Legislature, it was argued that prohibiting legislators from accepting honoraria would be in the public interest. Many people believe that the ban has served the public well, but point out that it applies only to 148 legislators. It has been suggested that the prohibition be extended to any State or local official who holds elective office.

CONTENT

The bill would amend the Michigan Campaign Finance Act to prohibit a person holding "elective office", rather than a legislator, from accepting an honorarium. Violators would be subject to the current penalty.

Under the Act, "elective office" means a public

office filled by election, except for Federal offices. Further, elective office does not include the office of precinct delegate, or a school board member in a school district with pupil membership of 2,400 or less. (A school board member in a district with 2,400 pupils or less is considered to hold elective office if his or her candidate committee receives or spends over \$1,000.)

MCL 169.250

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The payment of an honorarium to an elected official may be a way for an interest group to direct money toward that official, without the officeholder or the interest group having to account for the payment under the requirements of the Michigan Campaign Finance Act. Other than for legislators, the Act has no restrictions on accepting an honorarium as either a contribution or any other type of payment. Currently, if an elected official accepts an honorarium, all he or she must do is record the payment as ordinary income on the Federal income tax form, which is not public information. While at this time it does not appear that acceptance of honoraria is a widespread practice, it would be in the public interest for all elected officials to be prohibited from accepting honoraria.

Supporting Argument

While it may be a rare occurrence for an elected official to accept any level of honorarium, the mere existence of honoraria increases the possibility of the appearance of impropriety. A single widely

reported incident of abuse by an elected official in accepting a large honorarium could, in the collective view of the public, taint all elected officials. This is not fair either to the public or to the vast majority of honest elected public officials. Expanding the restrictions on honoraria would help ensure the public's confidence in government.

Supporting Argument

When elected public officials make speeches, participate in panel discussions, or otherwise make appearances as part of their public duties, they should not accept payment for so doing since they already are being paid (by the State or their local unit of government) to perform their public duties. Public officials know, or should know, what their responsibilities and rates of compensation are when they take office, and they should be willing to carry out the duties of their office without added compensation from private interest groups.

Opposing Argument

The bill simply doesn't go far enough; the only way to eliminate completely the appearance of impropriety would be to ban honoraria entirely. In fact, exempting reimbursement to an elected official and his or her family for the cost of travel and accommodations from the definition of "honorarium" leaves an opportunity for great mischief. Elected officials and their families, under the bill, still would be able to take all-expense-paid trips sponsored by special interests, in exchange for an appearance or speech. Such trips easily could turn into free luxury family vacations, all unreported by either the elected official or the interest group that sponsored the trip. If these trips cannot be banned, at least some method of reporting should be required so that information about them would be available to the public. Although the lobbyist registration Act does include reporting requirements, those requirements do not extend to local elected officials.

Legislative Analyst: G. Towne

FISCAL IMPACT

It is unknown how much revenue could be received from fines paid by officials who violated this provision. Therefore, the fiscal impact on State and local government is indeterminate.

Fiscal Analyst: E. Limbs

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.