

ELECTED OFFICIALS REPORTING ACT

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House Bill 4142 with committee amendment

Sponsor: Rep. Steve Bieda

Committee: Ethics and Elections

First Analysis (9-24-08)

BRIEF SUMMARY: The bill would require elected officials to file a report twice each year that lists any contributions or subsidies for travel given to them or to members of their immediate families if they have a value of \$50 or more

FISCAL IMPACT: House Bill 4142 would increase costs to the State of Michigan and Michigan counties by an indeterminate amount. See *FISCAL INFORMATION*.

THE APPARENT PROBLEM:

Generally, a conflict of interest is a situation in which an elected official has a personal interest, and from which the elected official (or a family member) derives a direct money gain. See *BACKGROUND INFORMATION*.

In order to determine the possibility of conflicts of interest, elected officials are generally asked (and sometimes required) to disclose their personal financial interests. In that way, citizens are able to ascertain conflicts when they occur during an elected official's decision-making, and to hold elected officials accountable for their deeds. Disclosure of sources of income that fund an elected official's work and family ensure a kind of transparency in the accountability system, allowing voters to gauge the honesty of those they elect to office. Disclosure assists the elected official, as well, since it makes apparent the possibility of conflicts of interest, and allows the elected official to avoid them.

To heighten elected officials' accountability, and to better ensure they put the public interest before their own, legislation has been introduced to require elected officials to disclose, twice each year, any contributions or subsidies they or their family members receive for travel.

THE CONTENT OF THE BILL:

House Bill 4142 would create a new act to be known as the Elected Officials Reporting Act that would require elected officials to file a report twice each year that lists any contributions or subsidies for travel having a value of \$50 or more given to them or to members of their immediate families,.

Under the bill, an individual holding elective office is required to file a travel contribution and subsidy report not more than 30 days after the ended of a reporting period. [Under the bill, "reporting period" means the six months immediately preceding

January 1 or July 1 of each year.] The report would have to include each contribution or subsidy for travel with an estimated value of not less than \$50 accepted by an elected official or immediate family member. Travel includes transportation and lodging.

(An official would *not* have to include a contribution or subsidy from the unit of government where he or she served in office, nor would the official have to include a contribution or subsidy received by an immediate family member from an employer for business travel.) Reports for state elected officials would be filed with the Secretary of State; reports for local elected officials with the county clerk.

The report filed by elected officials would have to include all of the following:

- The elected official's name and address.
- The elective office held.
- The dates of the reporting period.
- The official's campaign committee identification number.
- A description of any travel for which the elected official or an immediate family member received a contribution or subsidy with an estimated value of \$50 or more, including the following: (1) the date, location, and nature of the travel; (2) the purpose of the travel; (3) the identity, street address, and telephone number of each non-governmental source of a contribution or subsidy, and the estimated value of the contribution or subsidy; and (4) the name of each governmental source of a contribution or subsidy, and the estimated value of that contribution or subsidy.

If the elected official and his or her immediate family received no reportable contribution or subsidy for travel for that period, then no report would be required.

If a report were filed after the filing date, an individual would be responsible for a late filing fee of \$25 for each business day that report was late, not to exceed \$500. Further, an individual who knowingly filed an inaccurate or incomplete report would be responsible for a civil fine of not more than \$1,000. Late fees would be paid to the Secretary of State or county clerk with whom the report was required to be filed, and those offices could retain the late fees to cover the expenses of administering the act. Civil fines collected under the act would be forwarded to the state treasurer for deposit in the General Fund.

Reports received by the Secretary of State would be available to the public through the electronic filing and internet disclosure system, as described in the Michigan Campaign Finance Act, while those received by a county clerk would be available to the public for inspection and reproduction during regular business hours, as soon as practical (and no later than three business days after the report was received).

BACKGROUND INFORMATION:

Earlier in this legislative session, the House of Representatives passed a bill to establish a conflict of interest policy for state legislators. (The bill is awaiting action in the Senate Committee on Campaign and Election Oversight.) That legislation, House Bill 4315, would prohibit a state legislator from voting on matters in which the legislator has a personal interest, including one from which he or she (or a family member) derives a direct monetary gain (or loss). A legislator with a substantial conflict of interest would have to state that fact on the record, and then abstain from voting.

During testimony before the Ethics and Elections Committee about conflicts of interest earlier in this legislative session, the spokesman for the Michigan Campaign Network suggested that elected officials apply the following rules to avoid conflicts of interest: "When private or personal economic interest is distinct from that of the general public, then the public official must eliminate the conflict. If that is not possible, then the official must consider abstaining from official action in the area of substantial conflict of interest. The official should evaluate: the conflict as a threat to his or her judgment; the effect his or her participation in a conflicted situation will have on public confidence in the integrity of the legislature; and the need for his or her contribution (such as specialized knowledge of subject matter), to the effective functioning of the legislature."

FISCAL INFORMATION:

House Bill 4142 would increase costs to the State of Michigan and Michigan counties by an indeterminate amount.

The bill would increase costs of the Secretary of State due to additional administrative workload from the bill's requirement that all state elected officials file travel contribution and subsidy reports twice annually to the Secretary of State. While the bill allows the Secretary of State to retain any late filing fees (\$25 per day up to \$500), it is not currently possible to determine how much revenue might be collected through any late fees.

House Bill 4142 would increase costs for counties by an indeterminate amount. The increased administrative cost for a county would be dependent upon how many elected offices there are throughout the county. County clerks would experience increased costs due to additional administrative workload related to the bill's provisions that require all other elected officials to file a travel contribution and subsidy report twice annually with their office. The bill requires that county clerks make these reports available to the public within three days after receiving them. Under the bill's provisions, if an elective officeholder received no reportable travel contribution or subsidy, the elected official must submit a report stating this. While HB 4142 allows county clerks to retain any late filing fees (\$25 per day up to \$500), it is not currently possible to determine how much revenue might be collected through late fees.

The bill may increase General Fund revenue by an indeterminate amount. The General Fund would receive any revenue generated by civil fines (up to \$1,000) collected under

the act. Fines may be assessed to office holders who knowingly file an incomplete or inaccurate report.

ARGUMENTS:

For:

Disclosure of the sources of income that fund an elected official's work and family are necessary if conflicts of interest are to be made apparent. For example, if a lobbyist paid for the out-of-state travel of an elected official or members of his or her family, a conflict of interest would exist when that elected official voted on a bill being advanced by the lobbyist who provided the gift. This bill should be enacted into law so that these kinds of conflicts of interest would become apparent--both to elected officials, themselves, and also to the citizens who hold them accountable for voting in the public interest, rather than their own.

POSITIONS:

The Michigan Municipal League is neutral on the bill. (9-23-08)

The Michigan Township Association is opposed to the bill as written. (9-23-08)

The Michigan Association of School Boards is opposed to the bill as written. (9-23-08)

The Michigan Association of Counties has concerns with the bill as written. (9-23-08)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.