

Legislative Analysis



PROHIBIT STATE GRANTS FOR STATE ELECTED OFFICIALS

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House Bill 4380 (Substitute H-2)
Sponsor: Rep. Sarah Roberts
Committee: Ethics and Elections

First Analysis (2-10-10)

BRIEF SUMMARY: The bill would prohibit a legislator, governor, lieutenant governor, the secretary of state, or the attorney general from receiving state grants, and also participating in the negotiation of a state contract with someone who has made a contribution to his or her campaign committee.

FISCAL IMPACT: The bill would appear to have no fiscal impact.

THE APPARENT PROBLEM:

During the 2005-2006 legislative session, a then-state representative applied for a grant from the 21st Century Jobs Fund, on behalf of a local nonprofit organization established to serve struggling citizens in that south-central Michigan legislative district. Citing Article IV, Section 10 of the Michigan Constitution of 1963, people challenged the legislator's action, noting that it created a conflict of interest. That section of the constitution states: "No member of the legislature nor any state officer shall be interested directly or indirectly in any contract with the state or any political subdivisions thereof which shall cause a substantial conflict of interest."

Those who claimed that the grant-seeking created a conflict of interest also criticized the current law, offering a hypothetical scenario: it would be possible, they argued, for a legislator to realize financial gain by exerting undue influence over development of the state budget. For example, an Appropriations subcommittee chair could insist that a particular program receive line item funding from the General Fund, and then direct an allocation via a grant from that line-item to an organization in the local legislative district while sitting on the board or even being in its employ.

In order to avoid such conflicts of interest, legislation has been proposed to ban state elected officials from applying for state grants while in office.

THE CONTENT OF THE BILL:

House Bill 4380 would amend Public Act 318 of 1968, which addresses substantial conflicts of interest on the part of members of the Legislature and state officers, to prohibit a legislator, governor, lieutenant governor, the secretary of state, or the attorney general from receiving state grants, and also participating in the negotiation of a state contract with someone who has made a contribution to his or her campaign committee.

Currently under the law, no member of the Legislature or any state officer can be interested (directly or indirectly) in any contract with the state (or any political subdivision of the state)

that causes a substantial conflict of interest. House Bill 4380 would retain that provision, and add that "a member of the Legislature, the governor, the lieutenant governor, the secretary of state, or the attorney general shall not directly or indirectly apply for or accept the award of a grant funded by the state during his or her term of office, if the grant is not specifically in furtherance of duties of the legislative office." The bill specifies, however, that this prohibition would not apply to a grant to subsidize education at an institution of higher education, if the grant were offered through a program available on equal terms to members of the general public.

The bill also specifies that it would be a substantial conflict of interest for a legislator, the governor, the lieutenant governor, the secretary of state, or the attorney general to participate in the negotiation of a state contract on behalf of a party that had made a contribution to his or her campaign committee.

MCL 15.302

ARGUMENTS:

For:

Discerning conflicts of interest during decision-making in the legislative and executive branches of government can be difficult, because personal financial gain is not always readily apparent. In order to heighten citizen trust in governing officials, conflicts of interest can become more apparent when there is transparency—that is, when state elected officials' actions are easily detected and readily known by those who elect them. This requires laws that explicitly require financial disclosure and also prohibit particular practices by defining them as clear and substantial conflicts of interest. This bill does the latter. It should be enacted into law to ensure that state elected officials do not use their influence in the state budget process to unfairly direct state funds to projects in their districts, via grants, or participate in negotiations for state grants on behalf of those who have contributed to their campaign funds.

Against:

This is a good bill, but it should be amended to clarify that a legislator is allowed to advocate for any constituents who are seeking a grant to fund local programs.

Response:

The bill specifically prohibits a legislator from directly or indirectly *applying for* or *accepting* the award of a grant funded by the state. Under the bill, advocacy would, indeed, be allowed; however applying for or accepting a grant award would be prohibited.

POSITIONS:

No positions were advanced.

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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.