

Legislative Analysis



BAN CERTAIN FELONS FROM HOLDING ELECTIVE OFFICE AND SOME OTHER PUBLIC POSITIONS

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Senate Joint Resolution V

Sponsor: Sen. Tupac A. Hunter

House Committee: Ethics and Elections

Senate Committee: Campaign and Election Oversight

First Analysis (6-17-10)

BRIEF SUMMARY: The Senate Joint Resolution would make a person ineligible for election or appointment to state or local elective office, and to hold public employment under certain circumstances, if within the past 20 years the person had been convicted of particular work-related felonies.

FISCAL IMPACT: The bill would have no fiscal impact on state or local government.

THE APPARENT PROBLEM:

Article XI of the State of Michigan Constitution concerns "Public Officers and Employment." The article has seven sections that specify some of the qualifications and conditions for holding public office or working as a public servant in Michigan. Among other things, Article XI addresses the oath of office that public officials swear, impeachment from office, merit-based civil service systems of employment (as opposed to patronage), and serving as a custodian of public money. See **Background Information**.

The funding of public programs including the salaries of public sector workers--both appointed and elected--is typically derived from tax dollars. Consequently, all work undertaken in the public sector to ameliorate social problems is built on the bedrock of public trust. Without that public trust, the social contract between taxpayer and public servant is abrogated, and our state's deeply troubling economic and social problems cannot be defined, programmatically addressed, or eliminated.

A Senate Joint Resolution has been introduced to help ensure the preservation of the public trust by prohibiting felons from holding elective office or being hired for public employment, if they have been convicted of a felony involving dishonesty, deceit, fraud, or a breach of the public trust in the past 20 years, and if that conviction was related to the person's official capacity while holding any elected office or position of employment in the local, state, or federal government.

The joint resolution, if approved by two-thirds of the members elected and serving in both the House and Senate, would be submitted to the voters at the November 2010 general election.

THE CONTENT OF THE RESOLUTION:

Senate Joint Resolution V would amend the State Constitution to specify that a person would be ineligible (1) for election or appointment to any state or local elective office in Michigan and (2) to hold a position in public employment in Michigan that was policy-making or that had discretionary authority over public assets, if, within the immediately preceding 20 years, (1) he or she had been convicted of a felony involving dishonesty, deceit, fraud, or a breach of the public trust, and (2) the conviction was related to the person's official capacity while holding any elected office or position of employment in local, state, or federal government.

This requirement would be in addition to any other qualification required under the constitution or by law.

SJR V would add a new Section 8 to Article XI of the State Constitution. That article deals with "public officers and employment." The joint resolution specifies that the Legislature must "prescribe by law for the implementation of this section." The "V" refers to the letter "V" not the Roman numeral.

The joint resolution, if approved by two-thirds of the members elected and serving in each house of the Legislature, would be submitted to the voters at the next general election.

HOUSE COMMITTEE ACTION:

The members of the House Ethics and Elections Committee reported out the Senate-passed version of the Senate Joint Resolution without amendment.

BACKGROUND INFORMATION:

STATE CONSTITUTION (EXCERPT)
CONSTITUTION OF MICHIGAN OF 1963
Article XI
PUBLIC OFFICERS AND EMPLOYMENT

Document	Type	Description
Article XI § 1	Section	Oath of public officers.
Article XI § 2	Section	Terms of office of state and county officers.
Article XI § 3	Section	Extra compensation.
Article XI § 4	Section	Custodian of public moneys; eligibility to office, accounting.
Article XI § 5	Section	Classified state civil service; scope; exempted positions; appointment and terms of members of state civil service commission; state personnel director; duties of commission;

collective bargaining for state police troopers and sergeants; appointments, promotions, demotions, or removals; increases or reductions in compensation; creating or abolishing positions; recommending compensation for unclassified service; appropriation; reports of expenditures; annual audit; payment for personal services; violation; injunctive or mandamus proceedings.

Article XI Section Merit systems for local governments.
§ 6

Article XI Section Impeachment of civil officers
§ 7

ARGUMENTS:

For:

This Senate Joint Resolution prohibits felons from holding elective office or being hired for public employment, if they have been convicted of a felony involving dishonesty, deceit, fraud, or a breach of the public trust in the past 20 years, and if the conviction was related to the person's official capacity while holding any elected office or position of employment in the local state, or federal government.

Under the joint resolution, this prohibition, currently applicable only to state legislators, would be extended to all elected and appointed officials--including, for example, mayors and school district accountants. The joint resolution has been drafted specifically to prohibit convicted felons who have previously violated the public trust from holding elective or appointed office in all levels of government--local, state, and federal.

Adoption of the resolution by the legislature and the citizens of Michigan would require a state statute to enable implementation of the new constitutional provision. Adoption of the resolution by the Legislature and the citizens would help to preserve the public trust that must underlie effective leadership in our representative democracy.

POSITIONS:

No positions were advanced.

Legislative Analyst: J. Hunault

■ 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.