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BILL



ANALYSIS

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Senate Joint Resolution V (as enrolled)
Sponsor: Senator Tupac A. Hunter
Senate Committee: Campaign and Election Oversight
House Committee: Ethics and Elections

Date Completed: 8-20-10

RATIONALE

Article IV, Section 7 of the State Constitution provides that a person who has been convicted of subversion or who, within the preceding 20 years, has been convicted of a felony involving a breach of the public trust, is ineligible for a position as State Senator or Representative. Given recent developments in the City of Detroit, where elected and appointed officials have been convicted of felonies related to their conduct in office, some people contend that the current constitutional restriction is too limited because it applies only to holding legislative office and does not clarify what constitutes a breach of the public trust. It has been suggested that the State Constitution should more broadly prohibit a person from holding either elective office or any appointed position of public employment relating to policy-making or the control of public assets, if he or she had been convicted of a felony involving dishonesty, deceit, fraud, or a breach of the public trust relating to his or her official capacity in office or governmental employment.

CONTENT

Senate Joint Resolution V would amend the State Constitution to specify that a person would be ineligible for election or appointment to any State or local elective office in Michigan and ineligible 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, he or she had been convicted of a felony involving dishonesty, deceit, fraud, or a breach of the public trust, and the conviction

were related to the person's official capacity while holding any elective 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.

The Legislature would have to prescribe by law for the implementation of the joint resolution.

The joint resolution will be submitted to the voters at the November 2010 general election.

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

State and local government should be more responsive to the needs of residents, and governmental officials need to garner more trust and credibility with the electorate. To accomplish this, those with a track record of committing felonies involving deceit while in public office or government employment should be prohibited from holding positions of public trust. Recent events in the City of Detroit, where the former mayor, a former city council member, and former members of the city's administration have been convicted of felonies committed while in office, shine a bright light on the need for stronger restrictions on the election or appointment of felons.

While the Constitution currently prohibits an individual from serving in the Senate or House of Representatives if he or she has been convicted in the last 20 years of a felony involving a breach of the public trust, that provision does not go far enough to protect the public's assets or engender the public's trust in its government. That restriction, for instance, does not apply to local elective offices or State elected positions other than legislator. Also, it is arguable that some of the convictions in the Detroit cases might not constitute a "breach of public trust". By amending the State Constitution to prohibit a person from holding a State or local elective office or being appointed to certain governmental positions if he or she were convicted of a felony involving dishonesty, deceit, fraud, or a breach of the public trust that was related to the person's official capacity as an elected official or an employee of the State, local, or Federal government, the joint resolution would help protect the public from unscrupulous politicians and others. Approval of the joint resolution also would send a clear message that public service is about meeting the needs of the people, not pursuing personal gain at their expense.

Response: The joint resolution would not go far enough to root out governmental and political corruption. The proposed amendment should exclude *all* felons from holding office or a position that involves policy-making or discretionary authority over public assets.

Opposing Argument

The restrictions proposed by the joint resolution are unnecessary. An astute electorate can decide for itself whether someone should be entrusted with holding office. The Constitution should not bar someone whom the voters may want to elect.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The joint resolution would have no fiscal impact on State or local government.

Fiscal Analyst: Joe Carrasco

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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.