

Legislative Analysis



PUBLIC OFFICERS AND EMPLOYEES: DUAL POSITIONS FOR FIRE CHIEFS

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House Bill 4458 as enrolled
Public Act 196 of 2011
Sponsor: Rep. Paul Muxlow

House Committee: Oversight, Reform, and Ethics
Senate Committee: Local Government and Elections
Second Analysis (8-6-12)

BRIEF SUMMARY: The bill would permit a local government public officer or employee to also serve as a fire chief in municipalities having a population of less than 3,000.

FISCAL IMPACT: As written, the bill would have no state fiscal impact, but could potentially reduce costs for a small local unit to the extent that the same individual held more than one post without receiving additional compensation.

THE APPARENT PROBLEM:

Michigan's current ethics law prohibits elected officials and other public employees in local government from holding conflicting positions. Under the law, it is illegal to "be you own manager," as well as to exercise decision-making authority over a budget that funds the position you hold. To do otherwise is to risk an unlawful conflict of interest, and a serious breach of ethics.

Small villages and towns in Michigan are having increasing difficulty recruiting volunteers to fight fires, and also in identifying volunteers who will serve as fire chiefs to coordinate a volunteer fire department's response team.

For example, the village of Deckerville (population 944 in the 2000 census) located in Sanilac County, a part of the Michigan region customarily called "the Thumb," has a 14-member volunteer fire department (down from 24-members a couple decades ago) that serves a 94-square mile area. According to committee testimony, all of the firefighter volunteers have full-time jobs, and are called away from those jobs to fight fires on an "as needed" basis. None of the volunteer firefighters can serve as fire chief, because their fulltime jobs prevent them from doing so. Consequently, the elected village supervisor—a semi-retired businessman—currently serves in that capacity.

The volunteer fire department's combination village supervisor/fire chief (paid a \$1,400 stipend by the village council annually) coordinates the department's response to area fires, and an assistant fire chief (paid \$836 annually by the village council) completes all necessary paperwork that arises after a fire is fought. While this arrangement is working well—with fiscal accountability lodged in the elected village council—it is unlawful under Michigan's ethics laws. Nonetheless, many small communities in Michigan likely organize their fire service protection in a similar manner. Indeed, an informal poll by a Deckerville volunteer firefighter indicates that as many as 13 volunteer fire departments located in "the Thumb" may be in violation of the law.

Legislation has been introduced to allow local units of government having less than 3,000 residents greater flexibility to meet the requirements of the ethics laws.

THE CONTENT OF THE BILL:

House Bill 4458 (H-1) would amend Public Act 566 of 1978 (MCL 15.183), which prescribes standards of conduct for public officers and employees, to permit a public officer or employee to also serve as a fire chief in municipalities having a population of 3,000 or fewer people.

Current law prohibits the holding of incompatible public offices in order to avoid conflicts of interest, but specifies several exceptions. House Bill 4458 (H-1) would add an exemption so as to include fire chiefs in small jurisdictions. Specifically, the act would not prohibit a public officer or public employee of a city, village, township, or county with a population of less than 3,000 from serving, with or without compensation, as a fire chief in that city, village, township or county.

ARGUMENTS:

For:

Small communities throughout Michigan provide fire protection services to their residents by using volunteers to fight fires. The volunteer firefighters have full-time jobs, but leave them temporarily when they are called to fight a local fire. The role of a fire chief, who coordinates the fire response team, is often filled by one of the very few full-time employees of the local unit of government--perhaps a supervisor, or a public works director. Although this arrangement works well for many small communities, it is technically a violation of Michigan's ethics laws. This bill would give the elected officials of villages, townships, and small towns far greater flexibility to assign their colleagues or other fulltime employees to dual positions.

Against:

Elected and appointed officials who work in government should meet the highest ethical standards possible, in order to earn and maintain the trust of the taxpayers who fund both their salaries and the services they work to provide. In order to avoid conflicts of interest and ensure greater accountability to the public, a local official or government employee should never supervise his or her own position, or have the decision-making authority to unilaterally direct public funds to further his or her own financial self-interest.

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