

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 576

A bill to establish supplemental conflict of interest standards for members of regulatory bodies in the department of licensing and regulatory affairs; to require disclosure of certain interests; to provide grounds for removal of members of regulatory bodies; to provide a process for raising and determining possible conflicts of interest; and to provide for voiding certain actions taken in violation of this act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 1. (1) This act shall be known and may be cited as the
2 "regulatory boards and commissions ethics act".
3 (2) As used in this act:
4 (a) "Board" means a board, commission, committee, or
5 subcommittee in the department that has authority in regulatory
6 actions concerning private individuals or entities.

1 (b) "Department" means the department of licensing and
2 regulatory affairs.

3 (c) "Immediate family member" means a grandparent, parent,
4 parent-in-law, stepparent, sibling, spouse, child, or stepchild.

5 Sec. 2. In addition to any other standard of conduct or
6 disclosure requirement that may apply to a member or designated
7 alternate member of a board, each member or designated alternate
8 shall comply with the standards set forth in this act.

9 Sec. 3. (1) A board member shall do all of the following:

10 (a) Disclose to the board and the director of the department
11 any pecuniary, contractual, business, employment, or personal
12 interest that the board member may have in a contract, grant, loan,
13 or a regulatory, enforcement, or disciplinary matter before the
14 board. Disclosure is also required if a spouse, child, or stepchild
15 of a board member is a director, officer, direct or indirect
16 shareholder, or employee of an entity under consideration for a
17 contract, grant, or loan or is the subject of a regulatory,
18 enforcement, or disciplinary action before the board. A board
19 member shall make a written disclosure of the conflict to the board
20 unless the board member verbally discloses the conflict at a
21 meeting of the board and the disclosure is included in the official
22 minutes of the meeting.

23 (b) Refrain from participating in any discussion, directly or
24 indirectly, with other board members regarding a matter before the
25 board if the board member has a direct or indirect interest
26 described in subdivision (a).

27 (c) Abstain from voting on any motion or resolution relating

1 to a matter in which the board member has a direct or indirect
2 interest described in subdivision (a).

3 (d) Use state resources, property, and funds under the board
4 member's official care and control judiciously and solely in
5 accordance with prescribed constitutional, statutory, and
6 regulatory procedures and not for personal gain or benefit.

7 (2) A board member shall refrain from all of the following:

8 (a) Divulging to an unauthorized person any confidential
9 information acquired in the course of the member's service on the
10 board before the time prescribed or authorized for release to the
11 public.

12 (b) Representing his or her personal opinion as that of the
13 board or the department.

14 (c) Soliciting or accepting a gift or loan of money, goods,
15 services, or other thing of value for the benefit of a person or
16 organization other than this state that could reasonably be
17 expected to influence the manner in which the board member performs
18 official duties.

19 (d) Engaging in a business transaction in which the board
20 member may profit from his or her official position or authority as
21 a board member or benefit financially from confidential information
22 that the board member obtained or may obtain incident to the board
23 membership.

24 (e) Rendering services for a private or public interest if
25 that service is incompatible or in conflict with the discharge of
26 the board member's official duties at the time the services are
27 rendered.

1 (f) Participating in his or her official capacity as a board
2 member in negotiating or executing contracts, making loans,
3 granting subsidies, fixing rates, issuing permits or certificates,
4 or other regulation or supervision relating to a business entity in
5 which the board member or an immediate family member of the board
6 member has a pecuniary or personal interest, other than a 2% or
7 smaller interest in a publicly traded company.

8 Sec. 4. A contract, grant, or loan that a board enters into
9 with or awards to a board member or an immediate family member of a
10 board member with an interest in the matter is adopted in violation
11 of conflict of interest standards and is voidable at the option of
12 the department unless the affected board member complies with all
13 of the following:

14 (a) Except as expressly permitted by applicable law, the
15 affected board member has abstained from participating in the
16 discussion or vote on the matter.

17 (b) The affected board member immediately upon knowledge or
18 discovery discloses the pecuniary, contractual, business,
19 employment, or personal interest in the contract, grant, or loan in
20 the manner required by this act and other applicable law.

21 Sec. 5. (1) A person who has reason to believe that a board
22 member has failed to disclose an interest described in section
23 3(1)(a) or has an interest that is not required to be disclosed but
24 that would have a tendency to affect the ability of the member to
25 render an impartial decision on a matter may request, not later
26 than 1 year after the board takes any action on the matter, that
27 the director of the department or his or her designee consider the

1 issue of a conflict of interest as to that matter. The director or
2 his or her designee shall investigate the matter and decide the
3 issue of whether or not the board member has an undisclosed
4 interest described in section 3(1)(a) or has another conflict of
5 interest sufficient to raise a reasonable doubt as to whether the
6 board member could render an impartial decision. The director or
7 his or her designee may refer the matter to the board of ethics
8 created in section 3 of 1973 PA 196, MCL 15.343, at his or her
9 discretion.

10 (2) If the director or his or her designee determines under
11 subsection (1) that a board member has an undisclosed interest or a
12 conflict of interest that is sufficient to raise a reasonable doubt
13 as to whether the board member could render an impartial decision,
14 the department shall review the action to determine if that board
15 member cast a deciding vote in any action the board took regarding
16 the matter in which there is a reasonable doubt of the board
17 member's ability to have rendered an impartial decision. If the
18 action did not depend on the vote of that board member, the action
19 of the board stands. If that board member was the deciding vote in
20 an action regarding the matter, the board shall reconsider the
21 action without the participation of the board member who was found
22 to have an interest that was sufficient to raise a reasonable doubt
23 as to whether he or she could have rendered an impartial decision.

24 Sec. 6. This act is intended to supplement existing ethics
25 laws, and if there is a conflict, the following laws prevail:

26 (a) Section 10 of article IV of the state constitution 1963.

27 (b) 1978 PA 566, MCL 15.181 to 15.185.

1 (c) 1968 PA 318, MCL 15.301 to 15.310.

2 (d) 1968 PA 317, MCL 15.321 to 15.330.

3 (e) 1973 PA 196, MCL 15.341 to 15.348.

4 Enacting section 1. This act takes effect July 1, 2014.