

Legislative Analysis



MODIFY ADMINISTRATION OF OATH OF OFFICE TO STATE SENATORS AND REPRESENTATIVES

Mary Ann Cleary, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5781 (reported from committee without amendment)

Sponsor: Rep. Matt Lori

Committee: Oversight

First Analysis (9-23-14)

BRIEF SUMMARY: The bill would modify the way Michigan's oath of office is administered to state senators and state representatives, by allowing the Clerk of the House and the Secretary of the Senate to administer the oath.

FISCAL IMPACT: The provisions of the bill would have no fiscal impact on state government.

THE APPARENT PROBLEM:

Article XI Section 1 of the Michigan Constitution requires that all elected officials take the oath of office. That section reads:

§ 1 Oath of public officers.

Sec. 1. All officers, legislative, executive and judicial, before entering upon the duties of their respective offices, shall take and subscribe the following oath or affirmation: I do solemnly swear (or affirm) that I will support the Constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of according to the best of my ability. No other oath, affirmation, or any religious test shall be required as a qualification for any office or public trust.

An early state statute specifies that the oath of office can be administered to state senators and state representatives by the "chancellor, any justice of the supreme court, the lieutenant governor, the president *pro-tempore* of the Senate, or the speaker of the House of Representatives."

The term "chancellor" referred to the chief judge of Michigan's early chancery court which was in existence from 1836 until 1847. On March 1, 1847, the chancery court was abolished, and its jurisdiction was given to the circuit courts.

To update the state statute, legislation has been introduced that removes the reference to "chancellor," and, also allows the clerk of the House and secretary of the Senate to administer the oath of office.

THE CONTENT OF THE BILL:

House Bill 5781 would amend Chapter 2 of the Revised Statutes of 1846 to modify the way Michigan's oath of office is administered to state senators and state representatives,

by allowing the Clerk of the House and the Secretary of the Senate to administer the oath.

Now under the law, the oath of office taken by elected state senators and state representatives can be administered by the "chancellor, any justice of the supreme court, the lieutenant governor, the president *pro-tempore* of the Senate, or the speaker of the House of Representatives."

House Bill 5781 would modify this provision to remove *the chancellor*; to retain supreme court justices, the lieutenant governor, the Senate president, and the House speaker; and to add the House Clerk and Senate Secretary.

The bill also would repeal Section 6 of Public Act 67 of 1877, which says: *In case the president of the Senate or 1 of the judges of the supreme court cannot attend to administer the oath of office, the officers required by this act to organize meetings of the Legislature are hereby authorized to administer the oath of office, prescribed by the constitution of this state, to the members elect of their respective houses.* [PA 67 is the statute that provides for the organization of the Legislature.]

MCL 4.84

ARGUMENTS:

For:

The bill would update the state statute which prescribes who may administer the oath of office to elected state senators and state representatives.

POSITIONS:

No positions were advanced.

Legislative Analyst: J. Hunault
Fiscal Analyst: Ben Gielczyk

■ 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.