

Legislative Analysis



STATE LEGISLATOR OATH OF OFFICE

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House Bill 4100 as introduced
Sponsor: Rep. Lisa Wojno
Committee: Government Operations

First Analysis (2-15-05)

BRIEF SUMMARY: The bill would permit circuit court and district court judges to administer the oath of office to state legislators

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

THE APPARENT PROBLEM:

Current law provides that the oath of office for members or officers of the state legislature may be administered by a justice of the state Supreme Court, the lieutenant governor, the President Pro Tempore of the State Senate, or the Speaker of the House of Representatives. The law also provides that the office of "chancellor" may also administer the oath. That office, which was abolished in 1847, appears to apply to an officer presiding over a court of chancery (a court of equity as opposed to a court of law), and Michigan constitutions since 1850 have directed the legislature to abolish distinctions between law and equity proceedings and have prohibited the office of master in chancery. Legislation has been introduced that would delete this out-dated reference and expand the list of state officers eligible to administer the oath.

THE CONTENT OF THE BILL:

The bill would amend Chapter 2 of the Revised Statutes of 1846 to allow circuit court judges and district court judges to administer the oath of office for members of the state legislature. The bill would also delete the reference to "the chancellor", an office abolished in 1847.

MCL 4.84

BACKGROUND INFORMATION:

Another related act, Public Act 67 of 1877 (MCL 4.46), dealing with the organization of the Legislature, allows the Clerk of the House and the Secretary of the Senate to administer the oath of office to members of their respective houses "in case the president of the senate or one of the judges of the supreme court cannot attend."

ARGUMENTS:

For:

Allowing circuit and district court judges to administer the oath of office to individuals elected to the state legislature simply provides an additional option in those cases where other eligible state officers are not available. This change is particularly necessary if the member elects to be sworn into office in the district, prior to coming to Lansing, as eligible officials may not be readily available. The bill would also delete a reference to a court-related office long since abolished, as there no longer is a "chancellor" to swear in legislators. Circuit and district court judges are logical successors.

Response:

Given that under the bill supreme court justices, circuit court judges, and district court judges would all be allowed to administer the oath of office to state legislators, perhaps the bill should be amended to also permit judges of the state court of appeals to administer the oath.

POSITIONS:

There are no positions at present.

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