

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 398

A bill to amend 1986 PA 268, entitled
"Legislative council act,"
(MCL 4.1101 to 4.1901) by adding chapter 7B; and to repeal acts and
parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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CHAPTER 7B

SEC. 781. AS USED IN THIS CHAPTER, "COMMISSION" MEANS THE
LEGISLATIVE COMMISSION ON STATUTORY MANDATES ESTABLISHED IN THIS
CHAPTER.

SEC. 782. (1) THE LEGISLATIVE COMMISSION ON STATUTORY MANDATES
IS CREATED WITHIN THE LEGISLATIVE COUNCIL.

(2) THE COMMISSION SHALL CONSIST OF THE FOLLOWING 5 MEMBERS:

(A) ONE MEMBER APPOINTED BY THE SPEAKER OF THE HOUSE OF

1 REPRESENTATIVES.

2 (B) ONE MEMBER APPOINTED BY THE MINORITY LEADER OF THE HOUSE
3 OF REPRESENTATIVES.

4 (C) ONE MEMBER APPOINTED BY THE MAJORITY LEADER OF THE SENATE.

5 (D) ONE MEMBER APPOINTED BY THE MINORITY LEADER OF THE SENATE.

6 (E) ONE MEMBER OF THE PUBLIC JOINTLY SELECTED BY THE SPEAKER
7 OF THE HOUSE OF REPRESENTATIVES AND THE MAJORITY LEADER OF THE
8 SENATE, WHO IS AN ATTORNEY LICENSED TO PRACTICE IN THIS STATE.

9 (3) THE MEMBERS FIRST APPOINTED TO THE COMMISSION SHALL BE
10 APPOINTED WITHIN 60 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY
11 ACT THAT ADDED THIS CHAPTER.

12 (4) MEMBERS OF THE COMMISSION SHALL SERVE FOR A TERM OF 3
13 YEARS. A MEMBER OF THE COMMISSION SHALL DISCHARGE THE DUTIES OF HIS
14 OR HER POSITION IN A NONPARTISAN MANNER, WITH GOOD FAITH, AND WITH
15 THAT DEGREE OF DILIGENCE, CARE, AND SKILL THAT AN ORDINARILY
16 PRUDENT PERSON WOULD EXERCISE UNDER SIMILAR CIRCUMSTANCES IN A LIKE
17 POSITION.

18 (5) LEGISLATORS AND OTHER STATE EMPLOYEES ARE NOT ELIGIBLE TO
19 BE A MEMBER OF THE COMMISSION. MEMBERS OF THE COMMISSION SHALL BE
20 INDIVIDUALS WHO HAVE KNOWLEDGE OF, EDUCATION IN, OR EXPERIENCE WITH
21 THE BEST PRACTICES OF 1 OR MORE OF THE FOLLOWING FIELDS:

22 (A) ORGANIZATIONAL EFFICIENCY.

23 (B) GOVERNMENT OPERATIONS.

24 (C) PUBLIC FINANCE.

25 (D) ADMINISTRATIVE LAW.

26 (6) IF A VACANCY OCCURS ON THE COMMISSION, THE MEMBER SHALL BE
27 REPLACED IN THE SAME MANNER AS THE ORIGINAL APPOINTMENT.

1 (7) THE FIRST MEETING OF THE COMMISSION SHALL BE CALLED BY THE
2 MAJORITY LEADER OF THE SENATE NOT LATER THAN 60 DAYS AFTER THE
3 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS CHAPTER. THE
4 MEMBER APPOINTED BY THE MAJORITY LEADER OF THE SENATE AND THE
5 MEMBER APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES
6 SHALL BE CO-CHAIRPERSONS OF THE COMMISSION. THE CHAIRPERSON
7 POSITION SHALL ROTATE EACH MONTH BETWEEN THE CO-CHAIRPERSONS. THE
8 MEMBER APPOINTED BY THE MAJORITY LEADER OF THE SENATE SHALL BE THE
9 CHAIRPERSON OF THE COMMISSION FOR THE FIRST MONTH. AT THE FIRST
10 MEETING, THE COMMISSION SHALL ELECT FROM AMONG ITS MEMBERS OTHER
11 OFFICERS AS IT CONSIDERS NECESSARY OR APPROPRIATE. AFTER THE FIRST
12 MEETING, THE COMMISSION SHALL MEET AT LEAST MONTHLY, OR MORE
13 FREQUENTLY AT THE CALL OF THE CHAIRPERSON FOR THAT MONTH OR IF
14 REQUESTED BY 3 OR MORE MEMBERS.

15 (8) A MAJORITY OF THE MEMBERS OF THE COMMISSION CONSTITUTE A
16 QUORUM FOR THE TRANSACTION OF BUSINESS AT A MEETING OF THE
17 COMMISSION. A MAJORITY OF THE MEMBERS ARE REQUIRED FOR OFFICIAL
18 ACTION OF THE COMMISSION.

19 (9) THE BUSINESS THAT THE COMMISSION MAY PERFORM SHALL BE
20 CONDUCTED AT A PUBLIC MEETING OF THE COMMISSION HELD IN COMPLIANCE
21 WITH THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275.

22 (10) A WRITING PREPARED, OWNED, USED, IN THE POSSESSION OF, OR
23 RETAINED BY THE COMMISSION IN THE PERFORMANCE OF AN OFFICIAL
24 FUNCTION IS SUBJECT TO THE FREEDOM OF INFORMATION ACT, 1976 PA 442,
25 MCL 15.231 TO 15.246.

26 (11) MEMBERS OF THE COMMISSION SHALL SERVE WITHOUT
27 COMPENSATION. HOWEVER, MEMBERS OF THE COMMISSION MAY BE REIMBURSED

1 FOR REASONABLE AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE
2 OF THEIR OFFICIAL DUTIES AS MEMBERS OF THE COMMISSION SUBJECT TO
3 AVAILABLE APPROPRIATIONS.

4 (12) NOT LATER THAN DECEMBER 31, 2008, THE COMMISSION SHALL DO
5 ALL OF THE FOLLOWING:

6 (A) REVIEW AND INVESTIGATE ALL FUNDED AND UNFUNDED MANDATES
7 IMPOSED ON LOCAL UNITS OF GOVERNMENT IN STATE LAW.

8 (B) REVIEW AND INVESTIGATE ALL REPORTING REQUIREMENTS IMPOSED
9 ON LOCAL UNITS OF GOVERNMENT IN STATE LAW.

10 (C) DETERMINE THE COMPLETE COST OF EACH FUNDED AND UNFUNDED
11 MANDATE IMPOSED ON A LOCAL UNIT OF GOVERNMENT IN STATE LAW.

12 (D) DETERMINE THE COMPLETE COST OF EACH REPORTING REQUIREMENT
13 IMPOSED ON A LOCAL UNIT OF GOVERNMENT IN STATE LAW.

14 (13) NOT LATER THAN OCTOBER 1, 2009, THE COMMISSION SHALL MAKE
15 SPECIFIC DETERMINATIONS OF THE ITEMS DESCRIBED IN SUBSECTION (12)
16 AND REPORT THOSE DETERMINATIONS TO EACH HOUSE OF THE LEGISLATURE
17 AND THE GOVERNOR. THE COMMISSION SHALL ALSO MAKE AN INTERIM REPORT
18 TO EACH HOUSE OF THE LEGISLATURE AND THE GOVERNOR ON THE STATUS OF
19 ITS DETERMINATIONS OF THE ITEMS DESCRIBED IN SUBSECTION (12) NOT
20 LATER THAN JUNE 1, 2009.

21 (14) THE GOVERNOR MAY DIRECT THAT STATE AGENCIES SUBJECT TO
22 THE SUPERVISION OF THE GOVERNOR UNDER SECTION 8 OF ARTICLE V OF THE
23 STATE CONSTITUTION OF 1963 PROVIDE INFORMATION TO THE COMMISSION TO
24 ASSIST THE COMMISSION IN FULFILLING ITS DUTIES UNDER THIS SECTION.
25 UPON REQUEST OF THE COMMISSION, THE COMMISSION SHALL BE GIVEN
26 ACCESS TO ALL INFORMATION, RECORDS, AND DOCUMENTS IN THE POSSESSION
27 OF A STATE AGENCY THAT THE COMMISSION CONSIDERS NECESSARY TO

1 FULFILL ITS DUTIES UNDER THIS SECTION. THE COMMISSION MAY HOLD
2 HEARINGS AND MAY REQUEST THAT ANY PERSON APPEAR BEFORE THE
3 COMMISSION, OR AT A HEARING, AND GIVE TESTIMONY OR PRODUCE
4 DOCUMENTARY OR OTHER EVIDENCE THAT THE COMMISSION CONSIDERS
5 RELEVANT TO ITS DUTIES UNDER THIS SECTION.

6 (15) IN CONNECTION WITH ITS DUTIES UNDER THIS SECTION, THE
7 COMMISSION MAY REQUEST THE LEGISLATIVE COUNCIL TO ISSUE A SUBPOENA
8 TO COMPEL THE ATTENDANCE AND TESTIMONY OF WITNESSES BEFORE THE
9 COMMISSION OR TO COMPEL THE PRODUCTION OF A BOOK, ACCOUNT, PAPER,
10 DOCUMENT, OR RECORD RELATED TO THE DUTIES OF THE COMMISSION UNDER
11 THIS SECTION. THE LEGISLATIVE COUNCIL MAY ISSUE THE SUBPOENA ONLY
12 UPON THE CONCURRENCE OF A MAJORITY OF THE HOUSE MEMBERS AND A
13 MAJORITY OF THE SENATE MEMBERS OF THE LEGISLATIVE COUNCIL. A PERSON
14 WHO REFUSES TO COMPLY WITH A SUBPOENA ISSUED BY THE LEGISLATIVE
15 COUNCIL UNDER THIS SUBSECTION MAY BE PUNISHED AS FOR CONTEMPT OF
16 THE LEGISLATURE.

17 Enacting section 1. Chapter 7B of the legislative council act,
18 1986 PA 268, MCL 4.1781 to 4.1783, is repealed effective September
19 30, 2010.

20 Enacting section 2. This amendatory act does not take effect
21 unless all of the following bills of the 94th Legislature are
22 enacted into law:

23 (a) House Bill No. 5194.

24 (b) House Bill No. 5198.