



Senate Fiscal Agency  
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Senate Bill 17 (as passed by the Senate)  
Sponsor: Senator Dale Zorn  
Committee: Local Government

Date Completed: 2-18-21

### **RATIONALE**

In 2015, Public Act 566 of 1978, which prescribes standards of conduct for certain public officers and public employees and prohibits the holding of incompatible public offices, was amended so that public servants within cities, villages, townships, or counties with fewer than 40,000 people (rather than 25,000, as it had been) may serve as emergency medical personnel, firefighters, police officers, fire chiefs, chiefs of police, or public safety officers. This amendment was motivated by a concern that the available talent pools in towns with fewer than 25,000 people would be insufficient to fill these posts. Traditionally, the population thresholds for Public Act 566 have mirrored Public Act 317 of 1968, which governs contracts between public servants and public entities. Accordingly, it has been suggested that Public Act 317 be amended so that a sufficient talent pool for these positions is found and so that the thresholds in the two Acts are the same.

### **CONTENT**

**The bill would amend Public Act 317 of 1968, which governs contracts between public servants and public entities, to raise the maximum population of a city, village, township, or county in which a public servant may serve as an emergency medical personnel or firefighter, and a governing body may limit a public servant from performing other additional services for the local unit of government.**

Section 2 of the Act generally prohibits a public servant from being a party, directly or indirectly, to any contract between himself or herself and the public entity of which he or she is an officer or employee. However, the Act contains several exceptions to this provision. Among other things, Section 2 does not do any of the following:

- Prohibit a public servant of a city, village, township, or county with a population of less than 25,000 from serving, with or without compensation, as an emergency medical services personnel.
- Prohibit a public servant of a city, village, township, or county with a population of less than 25,000 from serving, with or without compensation, as a firefighter in that city, village, township, or county if he or she is not a full-time firefighter, a fire chief, or a person who negotiates with the city, village, township, or county on behalf of the firefighters.
- Limit the authority of the governing body of a city, village, township, or county with a population of less than 25,000 to authorize a public servant to perform, with or without compensation, other additional services for the local unit of government.

The bill would modify these provisions to increase the population ceiling from less than 25,000 to less than 40,000.

The bill also would allow a public servant to serve as a fire chief, police officer, chief of police, or public safety officer in units of government that met the population criteria, if he or she did not negotiate collective bargaining agreements with the municipality on behalf of the firefighters, fire chiefs, police officers, chiefs of police, or public safety officers.

The bill would take effect 90 days after its enactment.

MCL 15.323a

## **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

In the 1990s, many rural Michigan townships struggled to find candidates to volunteer as firefighters or emergency medical technicians. This problem was aggravated by the fact that townships were banned from considering board members for these positions. The law was changed in 1992 to provide more flexibility, but now townships just above the population limit of 25,000 are having the same issues in finding enough first responders and police officers to protect the public. In order to make sure those critical positions are filled, the population cap needs to be raised.

**Response:** It is unlikely that a municipality with a population in the 25,000-to-40,000 range is incapable of finding individuals who are not public servants to fill essential public safety and health positions.

### **Supporting Argument**

Public Act 566 of 1978 and Public Act 317 of 1968 traditionally have mirrored each other. Public Act 566 has been amended to reflect the desired change, so Public Act 317 of 1968 also should be amended to maintain that congruity.

### **Opposing Argument**

There is a reasonable chance that a person's simultaneous service as a public servant and his or her employment with a public entity could be abused. The danger posed by this circumstance outweighs any advantages afforded by raising the limit. Furthermore, even if a public servant employed by the public entity were prohibited from the negotiation of collective bargaining agreements to which he or she would be subject, he or she still could vote on the agreement or could engage in other conduct that would constitute a conflict of interest.

Legislative Analyst: Christian Schmidt

## **FISCAL IMPACT**

Adding to the types of emergency services-related positions that may be held by public servants and extending to larger local governments the option for public servants to serve in those positions, either paid or unpaid, would have no direct fiscal impact on local government. Any fiscal impact would depend on local decisions by eligible local units of government to exercise the authority provided by the bill. The table below shows counts of local governments by population size. Currently, there are 1,725 local governments with a population under 25,000 that are eligible for the employment exception for public servants. Under the bill, an additional 49 local units would become eligible for the employment exception based on 2010 population counts. The 82 largest local governments in the State would not be eligible for the employment exception under either current law or the bill.

The bill would have no fiscal impact on State government.

<b>Counts of Local Governments by Population Size and Type</b>				
	<b>Under 25,000</b>	<b>25,000 to 39,999</b>	<b>40,000 or More</b>	<b>Total</b>
<b>Counties</b>	27	15	41	83
<b>Cities</b>	235	16	29	280
<b>Villages</b>	253	0	0	253
<b>Townships</b>	1,210	18	12	1,240
<b>Total Local Units</b>	1,725	49	82	1856

Source: 2010 U.S. Decennial Census and Senate Fiscal Agency

Fiscal Analyst: Ryan Bergan

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.