

House File 341 - Introduced

HOUSE FILE 341

BY MASCHER

A BILL FOR

1 An Act prohibiting persons from simultaneously holding more
2 than one elective office and including applicability
3 provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 39.11, Code 2019, is amended to read as
2 follows:

3 **39.11 More than one office prohibited.**

4 ~~Statewide-elected~~ Elected officials and ~~members of the~~
5 ~~general assembly~~ shall not hold more than one elective office
6 at a time. ~~All other elected officials shall not hold more~~
7 ~~than one elective office at the same level of government~~
8 ~~at a time. This section does not apply to the following~~
9 ~~offices: county agricultural extension council or soil and~~
10 ~~water conservation district commission.~~

11 Sec. 2. Section 39.12, Code 2019, is amended to read as
12 follows:

13 **39.12 Failure to vacate.**

14 An ~~elected~~ official who has been elected or appointed to
15 another elective office ~~to which section 39.11 applies~~ shall
16 choose only one office in which to serve. The official shall
17 resign from all but one of the offices ~~to which section 39.11~~
18 ~~applies~~ before the beginning of the term of the office to which
19 the person was most recently elected or appointed. Failure to
20 submit the required resignation will result in a vacancy in all
21 elective offices to which the person was elected or appointed.

22 Sec. 3. APPLICABILITY. This Act applies to the simultaneous
23 holding of elective offices that results from an election or
24 appointment that occurs on or after July 1, 2019.

25 EXPLANATION

26 The inclusion of this explanation does not constitute agreement with
27 the explanation's substance by the members of the general assembly.

28 This bill prohibits persons from simultaneously holding more
29 than one elective office.

30 Under current law, including provisions of the Constitution
31 of the State of Iowa, common law, and the Code, the
32 simultaneous holding of certain offices is barred, which is
33 known as the doctrine of incompatibility of offices. The
34 Constitution of the State of Iowa bars the simultaneous holding
35 of offices for certain state-level offices. Common law bars

1 the holding of multiple offices where one office is subordinate
2 to the other, or where the duties of the two offices are
3 inconsistent. Current Code section 39.11 prohibits statewide
4 elected officials and members of the general assembly from
5 holding more than one elective office at a time, as well as
6 other elected officials from holding more than one elective
7 office at the same level of government at a time. However,
8 this statutory prohibition does not apply to the office
9 of county agricultural extension council or soil and water
10 conservation district commission. A person elected to an
11 elective office to which Code section 39.11 applies is required
12 to choose one office in which to serve and resign from all
13 other offices. Failure to do so creates a vacancy in all
14 elective offices to which the person was elected.

15 The bill provides that the statutory prohibition applies
16 to all elective offices in the state. Additionally, the bill
17 provides that the requirement to resign from an office if
18 elected to multiple offices also applies to the simultaneous
19 holding of elective offices which results from an appointment
20 to an elective office.

21 The bill applies to the simultaneous holding of elective
22 offices that results from an election or appointment that
23 occurs on or after July 1, 2019.