HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 3350 **DATE:** March 17, 2010
Version: First engrossment

Authors: Smith

Subject: Compatibility of office; city council members may not be city employees

Analyst: Deborah A. Dyson

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: www.house.mn/hrd.

Prohibits a mayor or city council member from also being employed by the city. Defines "employed" as a full-time permanent employee, as defined in the city's employment policy.

Effective August 1, 2010 and applies to persons elected or appointed to serve as mayor or city council member on or after that date.

A law may declare two positions compatible or incompatible. Absent a law on point, under the common law test, two positions may be incompatible:

- If one hires, supervises or evaluates, or sets the salary for the other; or
- If occupying the two offices is likely to result in occasions where the individual must harm or neglect one position in order to perform duties that are part of the other position.

Unless otherwise limited by law, an individual may apply for a job or run for an office incompatible with a current position without resigning from the current position. Op. Att'y Gen. 358-E-6, Feb. 18, 1958. However, if he or she accepts a position or receives a certificate of election to an office considered incompatible with the previously held job or office, the matter is treated as if the individual had resigned from the first position. *Hilton v. Sword*, 157 Minn. 263, 196 N.W. 467 (1923). For more information see the House Research information brief, *Compatibility of Offices*, revised October 2005 (also available on our website at www.house.leg.state.mn.us/hrd/pubs/comptoff.pdf).