



**House
Legislative
Analysis
Section**

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THE APPARENT PROBLEM:

The Elliot-Larson Civil Rights Act is patterned after federal law to prohibit employers from discriminating against individuals for reasons of religion, race, color, age, sex, and the like in various work-related matters. In 1986, Congress amended the Age Discrimination in Employment Act to prohibit mandatory retirement based on age for all but a few selected groups, and eliminate the previously-existing ceiling of 70 (which was raised from 65 in 1982) as the age at which a person could be required to retire. Generally, the federal law's prohibition does not apply to employers with fewer than 20 employees, to certain highly-placed executives, or, until after 1993, to tenured professors. State law, however, may be amended to ban age-based mandatory retirement for all but certain employees (airplane pilots, federal law enforcement officers, and others in high-skilled professions). Some people feel the state should, in the case of tenured faculty at institutions of higher education, act before the 1993 deadline to bar mandatory retirement policies based on age.

THE CONTENT OF THE BILL:

The bill would amend the Elliot-Larson Civil Rights Act to specify that an institution of higher education (a public or private state university, college, community college, or junior college) could not require an employee who had unlimited tenure under a contract to retire from work due to the employee's age. The bill also would qualify a provision now in the act which allows for "bona fide" retirement policies to be established and implemented by specifying that such an implemented retirement policy or system would not excuse the failure to hire a person, or require or permit the person's involuntary retirement, based on the person's age.

MCL 37.2202

FISCAL IMPLICATIONS:

According to the Department of Education, the bill would not affect state budget expenditures but could have fiscal implications for colleges and universities if faculty members decided to sue an institution as a result of the bill. As faculty retirement patterns are not likely to change because of the bill, costs to institutions are not expected to be great. (9-17-90)

ARGUMENTS:

For:

Aging and the loss of youthful capabilities is a process that varies from person to person. To force someone to leave employment based on age is to deny that person his or her individuality and deprive him or her of an important sense of self-worth. Though the federal Age Discrimination in Employment Act now prohibits forced retirement based on age in most areas of employment, it exempts tenured

COLLEGES: NO MANDATORY RETIREMENT

House Bill 5941 as introduced
First Analysis (9-25-90)

Sponsor: Rep. Perry Bullard
Committee: Colleges & Universities

faculty from the prohibition until the end of 1993. Various studies have shown that faculty members' retirement patterns have not been altered by increasing the age at which retirement can be required. (In 1982, the ceiling was raised from 65 to 70.) Since the 1986 change in federal law, the average age at which Michigan's tenured faculty retire has remained about 65. Some believe that if this pattern does not change, colleges and universities could have staffing problems as faculty shortages in certain disciplines could result. The real issue, however, is one of equity and fair treatment. The bill would allow capable faculty the option to continue teaching and doing research if they so desire. Nine other states have barred forced retirement for tenured faculty and Michigan should follow their lead.

Against:

Community colleges should not be included within the bill as they generally have no mandatory retirement age and, lacking tenure systems, no specified tenure termination. Community college faculty are employed on a contractual basis and usually include individuals who have retired from other careers or from other faculty positions.

POSITIONS:

The Department of Civil Rights supports the bill. (9-24-90)

The Department of Education supports the bill. (9-24-90)

The Michigan Education Association supports the bill. (9-24-90)

The American Association of University Professors supports the bill. (9-20-90)

The Michigan Community Colleges Association has not yet taken a position on the bill. (9-21-90)

H.B. 5941 (9-25-90)