

SFA

BILL ANALYSIS

Senate Fiscal Agency

• Lansing, Michigan 48909

• (517) 373-5383

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House Bill 4781 (Substitute S-2 as reported)
Sponsor: Representative Joe Young, Sr.
House Committee: Senior Citizens and Retirement
Senate Committee: Judiciary

Date Completed: 11-1-89

RATIONALE

The Traverse City Regional Psychiatric Hospital officially closed on October 1, 1989, and it is possible that other Department of Mental Health (DMH) facilities could close or be partially consolidated next year, due to the development of community-based mental health program services and/or budget constraints. While some hospital employees, such as registered nurses and doctors, would have little or no difficulty finding new employment, many positions in these facilities--such as residential care aides--require only a high school education. Such employees might not qualify for, and could find it difficult to obtain, other well-paying positions. Some of these employees worked at the Traverse City hospital for as many as 25 years. DMH officials believe that those employees who are close to retirement, and who have served the State for so long, deserve the option of early retirement.

employee of a DMH agency or inpatient facility designated for closure. (A DMH agency would be either the Southwest Michigan Community Living Services or the Wayne Community Living Services; a DMH inpatient facility would be a developmental disability center or a psychiatric hospital that was operated directly by the DMH.)

- The person was at least 56 years of age and had 10 or more years of credited service, the last one of which was as an employee of the DMH agency or inpatient facility that was designated for closure.
- The person, regardless of age, had 25 or more years of credited service as an employee of the DMH agency or inpatient facility that was designated for closure.

H.B. 4781 (11-1-89)

CONTENT

The bill would amend the State Employees' Retirement Act to allow a State Employees' Retirement System (SERS) member who was an employee of a DMH agency or facility and was on layoff status because the agency or facility was designated for closure on or after October 1, 1989, to retire with full benefits if one of the following applied:

- The person was at least 51 years of age and had 25 or more years of credited service, the last one of which was as an

When a facility or agency was designated for closure, the DMH Director would have to certify that fact in writing to the Legislature, which would have to certify by resolution, not less than 240 days before the designated official date of closure, and notify the SERS retirement board which facility or agency was to be closed and the designated official date of closure. An eligible member could retire on the actual date of closure, upon written application to the SERS board not less than 30 nor more than 180 days before the designated official date of closure. The bill specifies that any additional accrued actuarial costs and costs for

health insurance that resulted from the bill would have to be funded from appropriations to the DMH for that purpose.

MCL 38.19

SENATE COMMITTEE ACTION

The Senate Committee on Natural Resources and Environmental Affairs adopted a substitute (S-2) to the bill that specifies that the early retirement provision would apply to an employee on "layoff status" as a result of a facility or agency closure. The House-passed version of the bill would apply to an employee who was "terminated" because of closure. In addition, the substitute would allow an employee who met the bill's age and seniority standards for early retirement to receive a retirement allowance if only the last year of his or her years of service was as an employee of the closed agency or facility. The House-passed version would require the last 10 years of service to have been as an employee of the closed facility or agency. Also, the House-passed version would require the DMH Director to certify to the SERS board which facility or agency was to be closed and the designated official date of closure. The substitute, instead, would require the Director to certify the closure to the Legislature, which would have to certify by resolution and then notify the SERS board of the facility to be closed and official date of closure. Further, the House-passed version provides that an eligible member could retire upon written application to the SERS board "specifying a retirement date not more than 180 days prior to the official date of closure". The substitute provides, instead, that an eligible member could retire as of the date that the facility or institution actually closed, upon written application to the SERS board "not less than 30 or more than 180 days before the designated official date of closure".

FISCAL IMPACT

The bill would have, at most, a \$1.5 million impact each year on the State Employees' Retirement System, but there would be no impact on local government. The cost would be covered over a 10-year period. If only the Traverse City employees were affected, the annual normal cost for active members would be \$176,100. This cost would probably not

trigger an increase in the contribution rate. Consequently, there would be no increase in the General Fund contribution to the SERS in the 1989-90 or 1990-91 fiscal year.

ARGUMENTS

Supporting Argument

Long-time employees in State mental health facilities and agencies who have devoted a substantial portion of their lifetime working with the mentally disabled should be entitled to full retirement benefits if their facility or agency closes. Without an early retirement option, these employees would have to transfer to another, and possibly distant, DMH facility, retrain for another position in State government, or lose their jobs altogether. The bill would apply only to a small portion of those affected by a facility closure--employees who already were approaching retirement age and had served the State and the DMH well. The early retirement option should be available to those employees.

Opposing Argument

The bill could set a precedent of providing early retirement benefits for special concerns. If the Legislature continued to allow such provisions, the State could be in danger of moving toward a permanent early retirement plan, which could cost millions of dollars per year.

Response: The State already provides early retirement options to several groups, such as corrections employees who work in positions that require contact with prisoners. The precedent of giving special considerations to employees who undertake stressful work responsibilities already has been set, and DMH employees should be given similar options.

Opposing Argument

It is not entirely clear from the bill what the Legislature would have to "certify by way of resolution": notice of the fact that a facility or agency was designated for closure or the actual closure. While requiring the Legislature to certify the closure could impede the implementation of that decision, requiring certification of the notice could simply prevent otherwise eligible individuals from taking advantage of the bill's early retirement provisions.

Furthermore, requiring the Legislature to

certify -- or approve -- the designated closure of a DMH facility or agency could violate the separation of powers doctrine contained in Article 3, Section 2 of the Michigan Constitution. If the decision to close a facility is an executive one, requiring legislative approval of that decision would impermissibly involve the Legislature in the executive decision-making process. This type of legislative involvement was recently found unconstitutional by the Attorney General in Opinion No. 6603, released on October 9, 1989.

Legislative Analyst: P. Affholter
Fiscal Analyst: K. Lindquist

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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.