



**House
Legislative
Analysis
Section**

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BENEFITS FOR ASSAULTED VA WORKERS

House Bill 4010 as introduced
First Analysis (2-18-87) Floor Copy

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Sponsor: Rep. Thomas Mathieu
Committee: Public Health

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H.B. 4010 (2-18-87)

THE APPARENT PROBLEM:

Over the past decade, the legislature has several times singled out a class of state employees as deserving of special benefits when injured as a result of being assaulted while on the job. These include: Department of Corrections employees at penal institutions (Public Act 293 of 1975); Department of Mental Health workers (Public Act 414 of 1976); Department of Social Service employees at correctional juvenile institutions (Public Act 131 of 1978); and classified employees of the Secretary of State at branch offices and driver improvement centers, including those conducting road tests, and investigators. If injured as a result of an assault by a recipient of services, these workers are entitled to their regular pay until worker's compensation benefits begin, and then they receive supplements to make up the difference between worker's compensation and their regular pay. Fringe benefits are continued as long as the supplements continue. The apparent rationale for these laws is that certain employees are more open to the risk of assault and should not have to live on reduced compensation or lose leave time when they miss work due to injuries suffered as a result of an attack. Employees at the state's veteran facilities argue that they too are entitled to these benefits since they face similar dangers dealing with recalcitrant or abusive patients, and an employee organization has requested legislation granting workers these benefits.

THE CONTENT OF THE BILL:

The bill would entitle a Department of Public Health employee at a state-operated veterans' facility who was physically injured during the course of employment as the result of an assault by a recipient of services to receive a supplement to worker's compensation benefits so that total compensation would equal the employee's weekly net wage at the time of injury. Supplements would be paid only while the employee was on the department payroll and receiving worker's compensation benefits, and would be due employees receiving worker's compensation on the effective date of the bill. Fringe benefits would remain in effect while the supplements were being paid. The bill would also require that the injured worker be paid full wages until worker's compensation benefits begin (MCL 332.2229).

FISCAL IMPLICATIONS:

The Department of Public Health says there would be budgetary implications but has no estimates of the costs, which would depend on the number of employee injuries which meet the bill's provisions. The department notes that up until now there have been no reported injuries of the kind that would be covered by the bill (1-29-87).

ARGUMENTS:

For:

Employees at the state-operated veterans' facilities are as deserving of worker's compensation supplements as those state employees previously granted them by the legislature. They, too, face the risk of assaults from difficult patients, and should not have to live on reduced incomes while recuperating from injuries suffered in an attack on the job, or do without their wages while waiting the two weeks or more for worker's compensation benefits to begin. The legislature has already recognized that injuries suffered due to an assault should be treated differently from other on-the-job injuries for certain state employees particularly vulnerable to that hazard.

Against:

The legislature needs to deal with this issue in a comprehensive manner and determine which state employees deserve special benefits and which do not based on a principle or set of principles. Piecemeal legislation is likely to lead to inequitable treatment of employees. For example, Department of Social Service workers at residential facilities who are assaulted get special treatment while case workers assaulted by clients apparently do not. Is this fair? Should legislative workers, or anyone engaged in constituent services, receive the supplements if they are assaulted on the job? What about police? The Department of Public Health has recommended that if comprehensive legislation were to be adopted, compensation should be based on gross wages or a reduced percentage of gross wages rather than net wages since disparities in net wages result from the different number of exemptions/deductions claimed on federal, state, and city income tax forms.

Response: It may be true that the issue should be examined in some depth; however, the fact remains that the veterans' facility employees are deserving of treatment equal to that given to other employees at state-operated residential facilities.

Against:

The legislature should not be involved in determining how state employees are compensated. The state constitution gives that authority to the civil service system. Further, state employees now engage in collective bargaining with the state (which was not the case when earlier bills on this topic were passed), and disability compensation might best be determined through that process.

Response: The legislature's ability to enact this kind of legislation has not been successfully challenged on constitutional grounds.

Against:

Private sector employees doing similar work are not entitled to the supplements proposed in this bill. It is possible that offering supplements that allow the worker his or her net wage for as long as worker's compensation benefits continue could greatly reduce the incentive to return to work; this would increase worker's compensation costs and the department's costs. Besides, the workers are aware of the hazards of their jobs when they take them, and in this case those hazards do not seem to be out of the ordinary.

Against:

If, as the Department of Public Health reports, there have been no injuries to department employees at state-owned veterans' facilities of the kind covered by the bill, there is no problem and the bill is not needed.

Response: Rather than wait for problems to occur, the legislature should anticipate possible problems and act to address them before they occur.

POSITIONS:

The Department of Public Health supports the bill (1-29-87).

The American Federation of State, County, and Municipal Employees supports the bill (2-17-87).