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SFA**BILL ANALYSIS**

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Senate Bill 198 (Substitute S-1 as reported)
Sponsor: Senator Loren Bennett
Committee: Human Resources, Labor, Senior Citizens and Veterans Affairs

Date Completed: 4-29-99

RATIONALE

Residency requirements for governmental employees are found throughout Michigan in municipal charters, bylaws and personnel policies, and bargaining agreements between governments and their employees. Although the requirements vary in their specific restrictions and provisions, all serve to compel the employees to reside in a particular geographic area in order to obtain or maintain employment with the particular governmental unit. Some people believe that such requirements unfairly infringe on what they believe is the right of the employee, as a citizen, to determine where he or she will live. It has been proposed, therefore, that provision be made in State statute to prohibit the imposition of residency requirements on public employees.

CONTENT

The bill would create a new act to prohibit a "public employer" from requiring, by collective bargaining agreement or otherwise, that a person reside within a specified geographic area or within a specified distance or travel time from his or her place of employment as a condition of employment or promotion by the public employer. This provision would not apply if the person were a volunteer or paid on-call firefighter, an elected official, or an unpaid appointed official.

The bill specifies that it would apply only to employment contracts entered into, renewed, or renegotiated after the bill's effective date, in accordance with the prohibition against impairment of contracts provided in Article I, Section 10 of the State Constitution.

("Public employer" would mean the State or a county, township, village, city, authority, school district, or other political subdivision of the State and would include any entity jointly created by two or more public employers. "School district" would mean a school district, local act school district, or intermediate school district as defined in the Revised School Code, or a public school academy established under the Revised School Code.)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Residency requirements can add stress and hardship to governmental employees and their families by limiting their ability to decide in which community to live. Police officers and their families in some communities may be particularly endangered if they are forced to live in the same neighborhoods in which they fight crime. Indeed, one police officer who testified before the Senate Committee on Human Resources, Labor, Senior Citizens and Veterans Affairs recounted stories of threats, armed attacks on his home, and his children's terror at having to learn to "belly crawl" to the bathtub to avoid gun shots.

In addition, employees subject to residency requirements sometimes have to split their families or otherwise maintain two residences to comply with residency requirements placed on both husband and wife. If a police officer in one community marries a fire fighter in another nearby community, and both municipalities have residency requirements, the couple must either maintain two residences or one of them must leave his or her job.

Further, to mandate where one is to live and raise a family, regardless of the hardships and circumstances, arguably has a deleterious effect on an employee's morale. The detrimental effect that residency requirements have on families, together with the lack of any compelling need for the requirements, justifies their elimination.

Response: There have been various court cases concerning the alleged infringement of residency requirements on fundamental rights, with apparently conflicting and sometimes inconclusive rulings. Indeed, in a California Western Law Review article (volume 23, 1986), it states:

Courts should ensure that local governments at least fully justify these

[residency] requirements with legitimate, fair and substantial reasons as required by the Supreme Court. Local governments should be required to demonstrate both that their residency requirements are not overly broad in the categories of the public servants they burden and that alternative solutions such as residency within a certain radius of the local governmental unit will not suffice.

Supporting Argument

Residency requirements can be detrimental both to the careers of dedicated public servants and to the communities they serve. Sometimes, to avoid violating a residency requirement, an employee must leave his or her position in order to relocate to the next town, thereby taking a step down on his or her career ladder and depriving a community of a fine public servant. This was illustrated in testimony before the Senate committee with the real-life example of a veteran police lieutenant who accepted a lower rank and reduced salary from another police department simply because he wanted to place his family in a safer, suburban school district. The police officer's career was sidetracked and the city in which he had been a lieutenant lost the benefit of an experienced, high-ranking official.

Supporting Argument

Some residency requirements have served to put up barriers to affirmative action and reduce the pool of qualified applicants. Women and minorities may actually find it difficult, if not impossible, to accept positions or promotions because they cannot find new housing or for other reasons may not be able to move their families.

Supporting Argument

Currently, there is no uniformity on the imposition of residency requirements across the State, which has resulted in a patchwork of local requirements. The bill would create one State-wide standard allowing people to live where they chose as long as they competently performed the job that they were hired to do. This is the standard that is applied to the majority of workers in Michigan and this is how governmental employees should be treated.

Response: Michigan's local units include a vast array of cities, counties, townships, villages, and school districts. Each has its own unique blend of needs and community desires with respect to municipal services and employees. The bill's "one size fits all" approach could reduce a municipality's ability to conduct its business and negatively affect the quality of the services it has to offer its citizens.

Supporting Argument

Residency requirements for municipal emergency services personnel, in particular, are obsolete. Modern transportation and communication systems

and mutual aid agreements among municipalities make it possible to ensure that highly trained and experienced personnel are available at all times to answer an emergency call. In fact, according to the California Western Law Review article, "The erratic borders of modern-day cities and other governmental units often result in an employee being closer to his work site if he lives outside the governmental unit that employs him than if he was living within the unit." Further, it often is easier for a municipality to call in on-duty personnel from neighboring municipalities under mutual aid agreements than it is to find off-duty personnel who work and live within the municipality's borders. In circumstances in which a maximum response time of five minutes means the difference between life and death, it would be ludicrous for a municipality to waste valuable time searching for its own personnel at restaurants, ball parks, and shopping malls.

Response: Although mutual aid pacts may sufficiently provide for police and fire protection, other services provided by some municipalities, such as water and sewer lines, are not subject to mutual aid agreements. Having water maintenance workers close at hand when a sewer backed up or a water main failed could be of great benefit to the community.

In addition, close proximity alone may not always be the most significant factor in having a residency requirement. Some municipalities value the importance of their employees' being seen as members of the community in which they serve, and not just as daily commuters, particularly with police officers, fire fighters, and administrators.

Opposing Argument

Residency requirements often are covered in the collective bargaining process, which provides the opportunity to negotiate changes in the standards as deemed appropriate by a local government and the respective bargaining units. Thus, current and prospective employees know of the residency requirements when they accept terms of employment with the municipalities, and the employees may receive other benefits in exchange for submitting to residency requirements. The bill would arbitrarily and unilaterally affect future collective bargaining agreements, whose terms should be settled during negotiations between the parties and not by the Legislature.

Furthermore, many residency rules were put into place by voters' approving a local governing document, such as a city charter, that prescribes regulations for a local government's employees, such as residency rules. In addition, resident employees have a vested interest in their communities and can become full players in the political process of the locality for which they are employed and in which they reside. As residents, they can vote for the

officeholders who administer the various governmental policies that affect them as residents and employees.

Response: Many governmental employees, such as police and fire fighters, do not have the right to strike and arbitrators apparently are very reluctant to change whatever the status quo is for a particular bargaining unit. In effect, then, those employees who are unhappy with the residency requirements have only one recourse and that is to quit their jobs. Labor relations and civic pride are not well-served when workers are forced to comply with conditions that they feel are not in their best interest.

Opposing Argument

The bill would conflict with the principle of home rule for municipalities since it would involve the State in decisions that rightfully should be made by the municipality and its employees.

Response: The State clearly has the authority to intervene on local issues. Recent State laws that overturned local rent control and gun control ordinances, and that removed and replaced the Detroit school board, are examples of the State's right to become involved in local decision-making.

Opposing Argument

Residency requirements help develop job efficiency and commitment as employees become familiar with the problems and needs of the community in which they live and acquire a personal stake in its fortunes. According to the [California Western Law Review](#) article, employee tardiness and absenteeism arguably are reduced when employees live near their job sites. Moreover, citizens' confidence in the local government is increased when it is managed by its own residents. It is critical to the safety and security of the community and to the efficient and effective execution of the duties of public employees, such as police officers and fire fighters, that the residents of the municipality and its employees develop a bond of trust and common purpose with each other. Such a bond can best be established through the kind of daily, informal contact that occurs when these employees live in the municipality that employs them.

Response: To insinuate that police officers and fire fighters would be more willing to fight crime and fires and risk their lives for their next door neighbors than for strangers in another municipality does not do justice to these brave men and women. Police officers and fire fighters choose their professions because they wish to protect and serve the general public, not a particular city, community, or neighborhood. There is no evidence that a fire fighter's or police officer's home address, or the home address of any public employee, correlates to the quality of his or her job performance. Moreover, if a governmental employee is not doing his or her job for any reason, there are sufficient management remedies that are more effective than residency requirements.

Opposing Argument

It is only fair to require public employees to contribute to the public coffers that pay their salaries by residing in the municipality that employs them, and by paying property taxes and, where applicable, local income taxes to help support the local economy and schools. When people move out of a city, it loses revenues necessary to provide basic services. An exodus of these employees from some cities would exacerbate any severe financial problems those cities already may be facing.

Response: There is little evidence that public employees would move out of certain municipalities in droves. The bill would not promote a mass exodus; it simply would allow them to relocate if they deemed such a move to be in their best interests. Moreover, nonresident workers are not the real source of urban decline. Cities are not facing severe problems because city workers have decided to reside elsewhere. For various reasons, some urban areas have become unattractive places in which to live, work, transact business, or shop, and the requirement that public employees reside in these areas in and of itself is not going to effect an economic rebound. Municipal governments must find ways of making the cities more attractive not only to their employees and their families but also to the thousands of other citizens who have already fled a city to live, work, shop, and otherwise spend their salaries elsewhere.

Opposing Argument

It appears that the bill would apply to department heads in municipal and State government, as well as the rank-and-file employees. Some people believe that administrators should be required to live in the municipality or State affected by the policies these administrators develop and implement. The City of Ann Arbor, for instance, recognizing that housing might be expensive for city employees, that two-income families may need to share a commute or child care responsibilities, and that choices should be available, does not require residency for general employees. Ann Arbor does require department heads to reside within the city, however, so that they can more easily understand the needs of tax-paying citizens and the quality of services being delivered in the city.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would allow certain employees, as specified in the bill, to live outside of State or local unit boundaries, thereby reducing the income tax revenue collected by the State or cities that levy a city income tax. Depending on the degree to which city income tax collections changed, revenue sharing payments also could minimally change.

Fiscal Analyst: R. Ross

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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.