

Legislative Analysis



MICHIGAN VETERANS' FACILITY AUTHORITY

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 1097 as passed by the Senate
Sponsor: Sen. Peter MacGregor

Analysis available at
<http://www.legislature.mi.gov>

Senate Bill 1098 as passed by the Senate
Senate Bill 1099 as passed by the Senate
Sponsor: Sen. Jim Stamas

Senate Bill 1100 as passed by the Senate
Sponsor: Sen. David Hildenbrand

House Committee: Appropriations
Senate Committee: Veterans, Military Affairs and Homeland Security
Complete to 12-07-16

BRIEF SUMMARY:

Senate Bill 1100 would create the Michigan Veterans' Facility Authority (Authority), which would be a semi-autonomous state authority within the Department of Military and Veterans Affairs (DMVA). The Authority could solicit and receive funds and issue bonds for the purpose of purchasing or leasing land and facilities to construct new veterans' homes, and renovating existing veterans' homes. The Michigan Veterans' Facility Authority would administer any veterans' homes built or acquired.

Senate Bills 1097-1099 would amend the Michigan Veterans' Facility Act, 1885 PA 152.

- Senate Bill 1097 would clarify that the Board of Managers does not govern veterans' homes created by the Michigan Veterans' Facility Authority;
- Senate Bill 1098 would allow the Board of Managers to lease, sell, or donate property and enter into contracts with and provide staffing to the Michigan Veterans' Facility Authority;
- and Senate Bill 1099 would implement additional reporting and auditing requirements for the Board of Managers.

The Grand Rapids and D.J. Jacobetti Homes for Veterans would remain under the authority of the Board of Managers established under the Michigan Veterans' Facility Act, unless the Board relinquishes control to the Authority created under SB 1100.

Senate Bills 1097-1099 would only take effect with the enactment of either House Bill 5919 or Senate Bill 1100.

BRIEF FISCAL IMPACT:

The DMVA estimates that the first year costs of operating and staffing the Michigan Veterans' Facility Authority to be approximately \$1.5 million, with costs, for central operations and staffing only, eventually reaching approximately \$3.0 million per year.

The U.S. Department of Veterans Affairs matches the construction of new veterans' homes by 65%. However, the total costs of building and operating new veterans' homes are indeterminate and entirely dependent upon the decisions of the Michigan Veterans' Facility Authority, including, but not limited to, how many veterans' homes to build, where to build them, and how to staff them.

The remainder of the summary provides background information regarding state veterans' homes and Michigan's veteran population (page 2); followed by a detailed summary of the bills (page 6); and a more comprehensive fiscal impact statement (page 11).

BACKGROUND:

Current Law

The Michigan Veterans' Facility Act authorizes the establishment of veterans' homes within the state. Currently, the State of Michigan has two veterans' homes – the Grand Rapids Home for Veterans, established in 1886, and the D.J. Jacobetti Home for Veterans in Marquette, established at the former St. Mary's Hospital in 1979. The homes were originally under the administration of the (former) Department of Public Health, but were transferred to what is now the Department of Military and Veterans Affairs (DMVA) by Executive Reorganization Act 1991-7 and are currently administered by the Michigan Veterans Affairs Agency (MVAA) and overseen by the CEO of the Michigan Veterans Health Administration.

Veterans, and in some instances spouses or other family members,¹ are eligible to stay and receive care at the veterans' homes, which operate much like a nursing home. As defined by 1885 PA 152, as amended, veterans are individuals who have served as members of the Armed Forces of the United States² and have received an honorable discharge.

The act establishes the Board of Managers, which acts as the primary governing body for the state veterans' homes. The Board of Managers consists of seven members, representing different congressionally chartered veterans' organizations,³ appointed by the Governor and confirmed by the Senate for three year terms. Among other responsibilities, the Board of Managers establishes the assessed rates that veterans are charged to stay at the homes.

¹ The U.S. Department of Veterans Affairs Veterans Health Administration does not pay long-term care per diem for non-veteran members of state veterans' facilities.

² As defined in 1965 PA190, MCL 35.61.

³ Specifically, the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, and one "other" congressionally chartered veterans' organization.

Costs of Care and Funding

The DMVA reports that in 2016, the monthly costs for skilled nursing care is approximately \$4,200 per veteran. The veterans' homes receive funding from three primary sources to cover these and general operational costs:

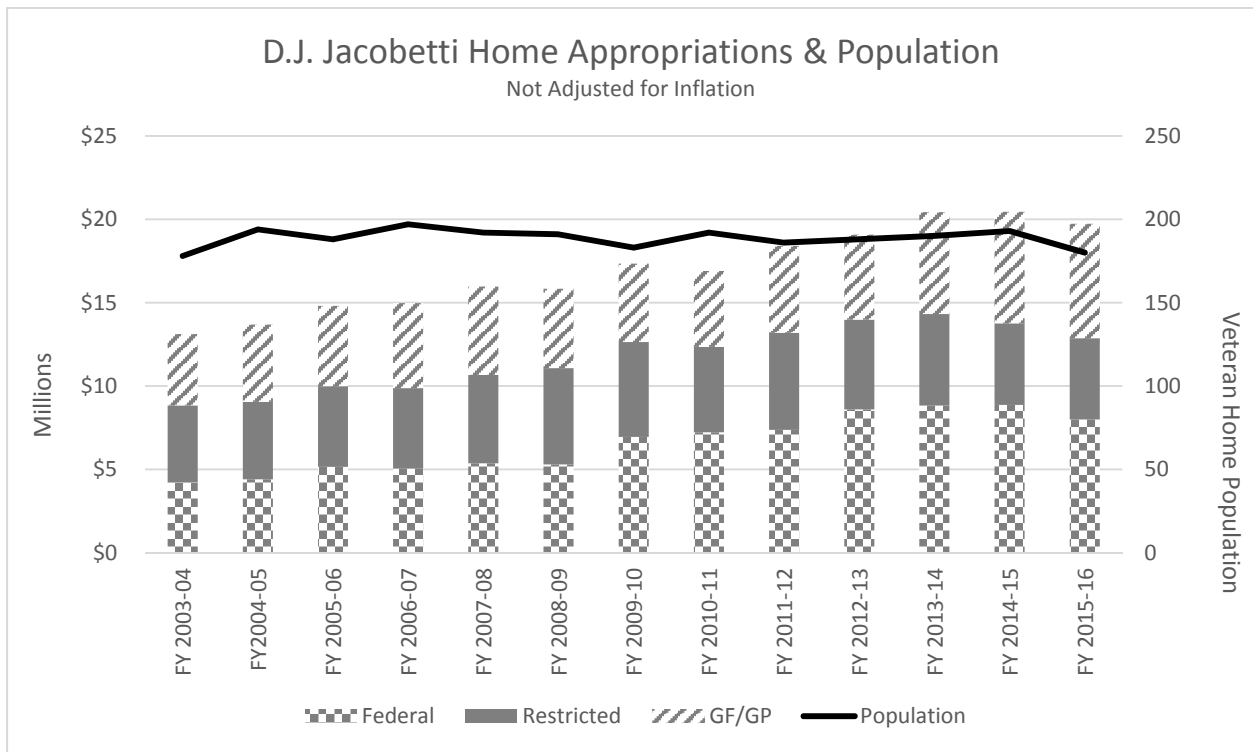
- federal (U.S. Department of Veterans Affairs and the Centers for Medicaid and Medicare Services);
- state restricted (income-based assessments paid by resident veterans);
- and GF/GP annually appropriated by the Legislature.

The U.S. Department of Veterans Affairs (USDVA) Veterans Health Administration pays a per veteran per diem based upon a veterans' care needs and any service-connected disability rating. According to the DMVA, for each veteran with a USDVA service-connected disability rating of 70% or above residing in a state veterans' home, the home receives approximately \$350 per day to cover long-term care,⁴ in 2016. State veterans' homes receive approximately \$103 per day for all other veterans receiving skilled nursing care and approximately \$43 per day for domiciliary care, in 2016. In addition to USDVA per diem, state veterans' homes are allowed under federal law to concurrently collect Medicaid and Medicare funds for long-term nursing care for eligible veterans, if the facilities meet the Centers for Medicaid and Medicare Services (CMS) facility and staffing standards.

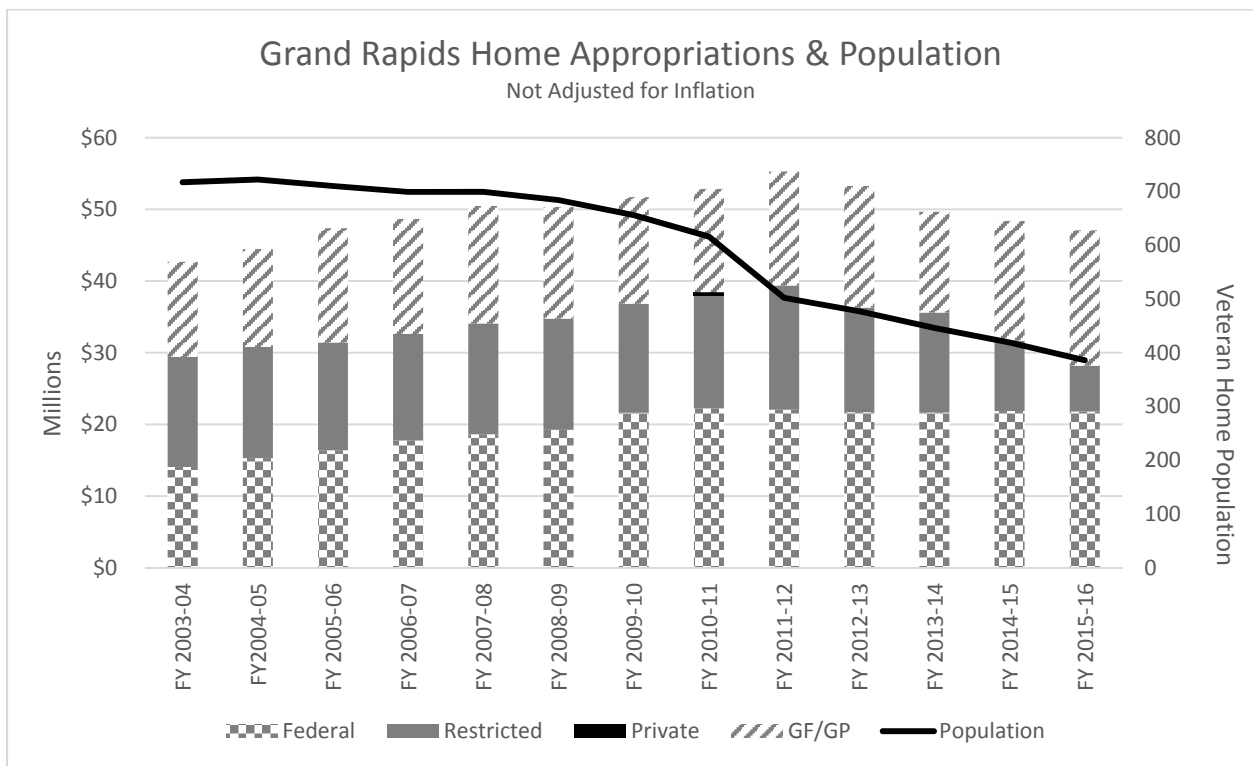
Currently, the D.J. Jacobetti and Grand Rapids Homes for Veterans receive a modest amount of Medicaid and Medicare funding in the form of Medicare prescription coverage or Medicaid reimbursements for services provided outside of the homes, but paid for upfront by the homes, which are not linked to CMS certification. The DMVA reports that CMS certification would allow the homes to collect funds from Medicare Part A for temporary skilled nursing care for rehabilitation services, as well as Medicaid reimbursements for long-term skilled nursing care for eligible veterans. The MVAA estimates that Medicare Part A will provide approximately \$300 to \$500 per day for each veteran that qualifies and Medicaid reimbursements will provide approximately \$200 to \$400 per day for each veteran that qualifies. The D.J. Jacobetti Home is in the process of being renovated to meet these standards, and substantive renovation of the Grand Rapids Home is yet required.

While veterans are expected to pay an out-of-pocket, income-based assessment, many veterans qualify for the minimum assessment or are unable to pay. Additionally, the population in the Grand Rapids Home has decreased dramatically. In recent years, this has caused gaps in funding, which have been filled by the Legislature as they arise through supplemental appropriations of GF/GP funds. Generally, the Legislature also appropriates GF/GP funds to cover basic and special maintenance costs on an annual basis or through supplemental appropriations.

⁴ This rate varies by location.



Sources: The Michigan Administrative Information Network, the Department of Military and Veterans Affairs, and House Fiscal Agency records.

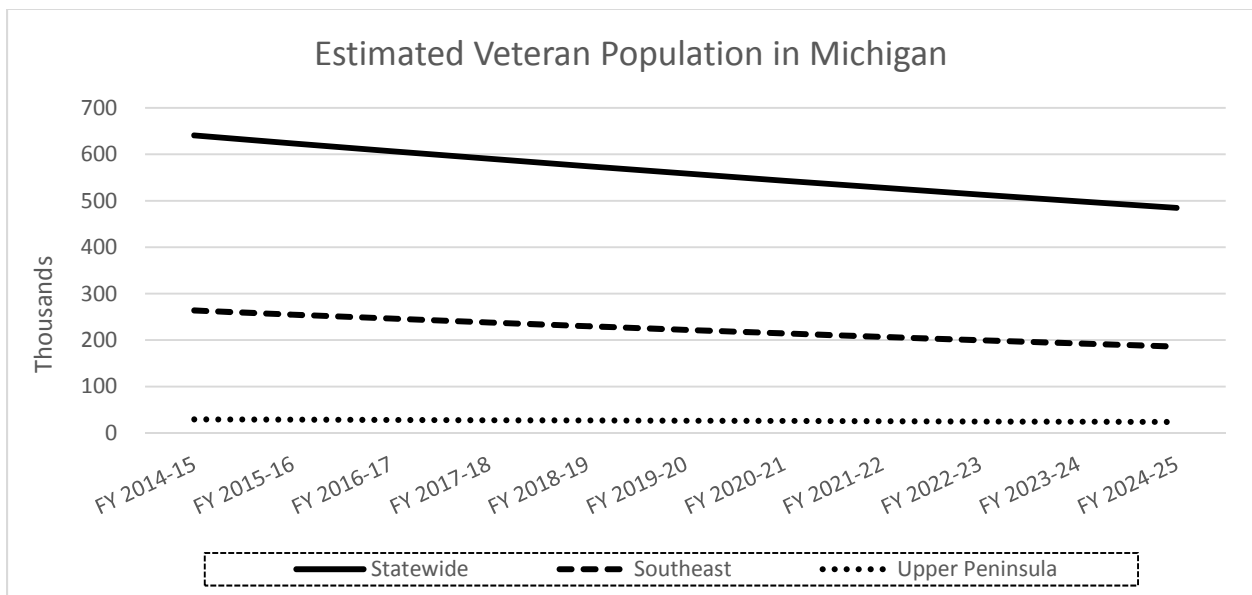


Sources: The Michigan Administrative Information Network, the Department of Military and Veterans Affairs, and House Fiscal Agency records.

Michigan’s veteran population is expected to decrease substantially over the next decade. The USDVA estimates⁵ that Michigan’s veteran population in FY 2014-15 was approximately 641,000 and is expected to decrease by 25% to approximately 485,000 by FY 2024-25.⁶

A large share of Michigan’s veterans live in southeast Michigan.⁷ According to USDVA estimates, in FY 2014-15, approximately 264,000 (41% of all veterans living in the state) lived in southeast Michigan. This region’s veteran population is expected to decline by 29% over the next decade, reaching approximately 186,000 by FY 2024-25.

The USDVA estimates that in FY 2014-15 approximately 29,000 veterans lived in the Upper Peninsula, which is expected to see a decline in its veteran population of 19% to approximately 24,000 by FY 2024-25.



Source: Michigan Department of Military and Veterans Affairs; http://www.michigan.gov/documents/dmva/Vet_Population_498986_7.pdf; accessed September 27, 2016.

However, large portions of Michigan’s veteran population are reaching the age at which they are most likely to need nursing home services. Vietnam Era veterans make up the largest cohort in Michigan’s veteran population. In 2014, the size of this group was estimated at approximately 225,700, with approximately 60% within the 65-74 year old age range and approximately 6% below the federal poverty level.⁸

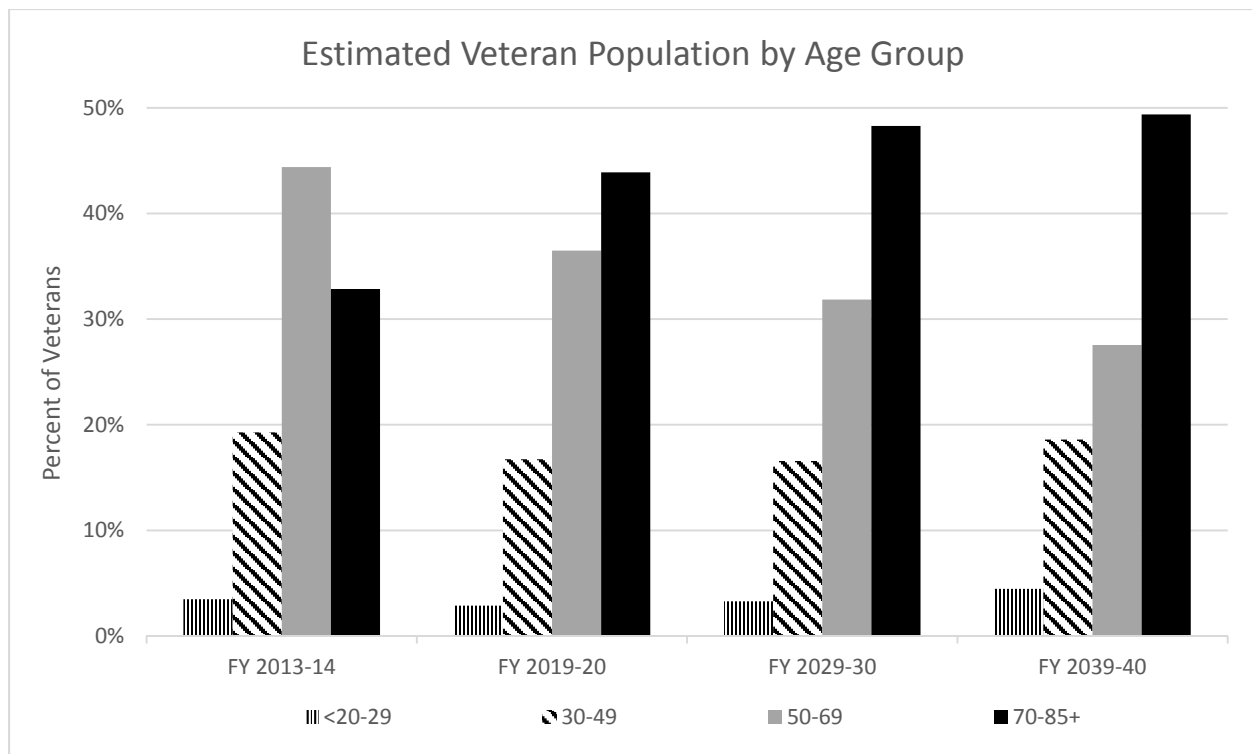
⁵ Michigan Department of Military and Veterans Affairs; http://www.michigan.gov/documents/dmva/Vet_Population_498986_7.pdf; accessed September 27, 2016.

⁶ The U.S. Census Bureau estimated Michigan’s 2015 population to be 9.9 million. Veterans composed approximately 6% of Michigan’s overall population in 2015. Source: <http://www.census.gov/search-results.html?q=population+of+michigan&page=1&stateGeo=none&searchtype=web&search.x=0&search.y=0>; accessed September 27, 2016.

⁷ Includes Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, and Wayne Counties; <http://semcog.org/About-SEMCOG>.

⁸ U.S. Department of Veterans Affairs; http://www.va.gov/vetdata/Veteran_Population.asp; accessed October 11, 2016.

Additionally, the USDVA estimates that between FY 2013-14 and FY 2039-40 the percentage of veterans in Michigan 70 years of age and older will increase from approximately a third to nearly half of all veterans living in the state.



Source: U.S. Department of Veterans Affairs; http://www.va.gov/vetdata/Veteran_Population.asp; accessed October 11, 2016.

DETAILED SUMMARY:

Senate Bill 1100

Senate Bill 1100 would create the Michigan Veterans' Facility Authority (Authority) as a semi-autonomous⁹ organization housed within the DMVA. The Authority would be governed by a nine-member board of directors and would have the statutory authority to issue bonds and receive donations for the purposes of purchasing or leasing land or facilities, or renovating existing veterans' homes in its charge or constructing new ones. Its property and income would be exempt from taxation, and bonds issued by the Authority would be subject to the Agency Financing Reporting Act (2002 PA 470) but would be exempt from the Revised Municipal Finance Act (2001 PA 34).

The nine-member board of directors would consist of the director of the DMVA and eight members appointed by the Governor for four-year terms,¹⁰ including:

⁹ The bill specifically states that the Authority would be a public body corporate and politic within the DMVA, and its assets, liabilities, and funds would not be consolidated or comingled with state funds.

¹⁰ The bill staggers the terms of the first appointees, so as to not have the entire board's terms expire simultaneously.

- three members, with the consent of the Senate, who have professional knowledge, skill, or experience in long-term care, health care licensure or finance, or medicine, with one member being a resident of the Upper Peninsula;
- three members, with the consent of the Senate, who have professional knowledge, skill, or experience in long-term care, health care licensure or finance, or medicine, and represent one or more congressionally chartered veterans' organizations;
- one member who has professional knowledge, skill, or experience in long-term care, health care licensure or finance, or medicine, from a list of candidates proposed by the Senate Majority Leader;
- and one member who has professional knowledge, skill, or experience in long-term care, health care licensure or finance, or medicine, from a list of candidates proposed by the Speaker of the House.

One year after the second facility operated by the Authority commenced housing veterans, the Director of the DMVA would become a non-voting member of the board of directors and the Governor appoints another member, with the consent of the Senate, who is a veteran and meets the requirements listed above. Members serving on the Authority board of directors would not be compensated for performing their duties, but would be eligible for travel and expense reimbursements.

The board of directors of the Authority could contract for, or employ, temporary or full-time employees as it considered necessary. All employees and members of the Authority would be subject to the Contracts of Public Servants with Public Entities Act (1968 PA 317) or the Conflict of Interest Act (1968 PA 318). The Authority would give hiring preference to employees currently employed by the existing veterans' homes in Grand Rapids and Marquette, and would be required to consider nationally recognized models and guidelines for the delivery of veterans' healthcare as well as Michigan Civil Service Commission rules and regulations when determining the staffing and operation of any veterans' facilities under its authority.

Meetings of the board of directors of the Authority would be subject to the Open Meetings Act (1976 PA 267) and the Authority would be required to make non-privileged information regarding the Authority, or any of the veterans' homes in its authority, available to members of the Legislature upon request.

Members and employees of the Authority would have limited liability when acting in an official capacity. Members and employees of the Authority would also be restricted from having an interest in organizations that do business with the Authority.

Additionally, the Authority would have the power to:

- independently issue bonds by resolution;
- issue new bonds to refund existing bonds;
- determine the basic aspects of the bonds it issues;
- sell bonds in the manner as determined by the board of directors;
- solicit and accept gifts, grants, and loans;
- invest Authority funds and use depositories;

- procure insurance;
- sue and be sued;
- create an official Michigan Veterans' Facility Authority seal;
- engage in contracts and conveyances, or other instruments necessary to exercise its authority;
- create internal bylaws;
- contract with and employ individuals for the purpose of operating the Authority and any veterans' homes it administers;
- employ the services of financial advisors, legal consultants, and other experts;
- pay its operating and financing costs;
- pledge revenues or other assets as securities on bond principal and interest payments;
- procure insurance, letters of credit, or other credit enhancement, with respect to bonds;
- plan for and build, renovate, and purchase or lease facilities and land for the purpose of building one or more veterans' homes;
- operate veterans' homes;
- solicit federal and other funds for the development and operation of one or more veterans' homes;
- prescribe restrictions on bonds, when applicable, to ensure exemption from federal tax and enter into tax regulatory agreements;
- and any other necessary requirement of fulfilling the purposes of the Michigan Veterans' Facilities Authority Act, as would be created by the bill.

The state, political subdivisions of the state, and all other individuals and organizations who are authorized to invest in bonds or other obligations of the state, would be able to purchase bonds issued by the Authority.

The Authority could secure bonds by a trust agreement or trust indenture with a trust company or a bank with the powers of a trust company. A trust agreement or trust indenture could contain provisions regarding the custody, safeguarding, and application of all money and bonds, as well as provisions for protecting and enforcing the rights under the sale agreement of the owners of the bonds and other benefited parties.

The Authority could delegate, to a member, employee or designated agent of the Authority, the power to issue, sell, and deliver bonds on behalf of the Authority, with limitations on those bonds as established by the Authority.

Pledges of revenue made by the Authority would be legally binding when the pledge is made. The encumbered revenues, reserves, or associated interest earnings would be immediately subject to the lien of the pledge. All bonds issued by the Authority would be negotiable within the meaning, and for the purposes of, the Uniform Commercial Code.

The Authority would not be able to issue bonds for qualified residential rental projects,¹¹ qualified mortgage bonds,¹² or mortgage credit certificates.¹³

Senate Bill 1100 also would institute annual reporting and auditing requirements. It would require the Authority to issue an annual report – within ninety days of the close of a fiscal year – to the Governor, the Legislature, and the chairpersons of the relevant appropriations subcommittees. The report would include, but is not limited to:

- the development status of each new veterans' home;
- a statement regarding the possible opening of a veterans' home within the upcoming fiscal year;
- a veteran population census in the existing homes under its authority;
- all revenues received and expended;
- demographic information regarding the veteran population in the existing homes under its authority;
- recommendations for improvements at the existing veterans' homes under its authority;
- costs relating to salaries, wages, and benefits for staffing the existing veterans' homes under its authority;
- and any other matters that the Authority wants to report on.

The Authority would have to issue supplemental ninety-day reports to the Governor, the Legislature, and the chairpersons of the relevant appropriations subcommittees if in the annual report it reports that it would likely be opening one or more veterans' homes in the upcoming fiscal year.

Additionally, the bill would require the Auditor General, or a designee who is a certified public accountant, to audit the finances of the Authority after the initial year of its existence, then biennially for the following three years. Thereafter, a performance audit of a veterans' home under the administration of the Authority would be warranted if the Centers for Medicaid and Medicare Services (CMS) indicates substandard care during a survey, an audit is requested by either chamber of the Legislature, or as the Auditor General deems necessary.

The Authority could be dissolved by an act of the Legislature, providing the Authority has no outstanding debts or obligations.

The bill would take effect ninety days after the enactment date.

Senate Bill 1097

Senate Bill 1097 would amend the Michigan Veterans' Facility Act, 1885 PA 152 (MCL 36.2a), by including a subsection defining that veterans' facilities established under the act are separate from any new veterans' facilities established under the Michigan Veterans' Facility Authority Act, as would be created by SB 1100. Thus the Grand Rapids and D.J.

¹¹ Section 142, Internal Revenue Code of 1986, 26 USC 142.

¹² Section 143, Internal Revenue Code of 1986, 26 USC 143.

¹³ Section 25, Internal Revenue Code of 1986, 26 USC 25.

Jacobetti Homes for Veterans would remain under the authority of the Board of Managers, as established by 1885 PA 152, unless they are transferred to the Michigan Veterans' Facility Authority. Similarly, the Board of Managers would have no authority over the veterans' facilities established by the Michigan Veterans' Facility Authority.

The bill would take effect ninety days after the enactment date. The bill would not take effect unless either House Bill 5919 or Senate Bill 1100 is enacted.

Senate Bill 1098

Senate Bill 1098 would amend the Michigan Veterans' Facility Act, 1885 PA 152, by including a section that would statutorily allow the Board of Managers to enter into contracts with the Michigan Veterans' Facility Authority, as would be created by SB 1100.

The Board of Managers could:

- lease, sell, or donate property under the administration of the Board of Managers to the Michigan Veterans' Facility Authority in order to establish a new veterans' home under the direction of the Michigan Veterans' Facility Authority;
- enter into any agreement with the Michigan Veterans' Facility Authority regarding the care or housing of veterans in a state veterans' home;
- and provide staffing to the Michigan Veterans' Facility Authority to provide for care and housing of veterans, as well as the operation of a veterans' home.

This would allow the Board of Managers to transfer property from the Grand Rapids Home for Veterans estate to the Michigan Veterans' Facility Authority for the purpose of building a new, modern veterans' home on land already owned by the state. Additionally, the bill would allow the Board of Managers to relinquish control of the Grand Rapids and D.J. Jacobetti Homes for Veterans, including staff, to the new Michigan Veterans' Facility Authority.

The bill would take effect ninety days after the enactment date. The bill would not take effect unless either House Bill 5919 or Senate Bill 1100 is enacted.

Senate Bill 1099

Senate Bill 1099 would amend the Michigan Veterans' Facility Act, 1885 PA 152, to include new annual reporting and auditing requirements. The bill would require the Board of Managers to issue an annual report – within ninety days of the close of a fiscal year – to the Governor and Legislature. The report would include, but is not limited to:

- the development status of the Grand Rapids and D.J. Jacobetti Homes for Veterans, presumably in regards to achieving CMS certification or any other renovation or special projects;
- a statement regarding the possible closure of one of the existing veterans' homes within the upcoming fiscal year;
- a veteran population census in the existing homes;
- all revenues received and expended;
- demographic information regarding the veteran population in the existing homes;
- recommendations for improvements at the existing homes;
- costs relating to salaries, wages, and benefits for staffing the existing homes;
- and any other matters of which the Board of Managers wants to report on.

The bill would also require the Board of Managers to issue supplemental ninety-day reports to the Governor and Legislature if in the annual report it states that it would likely be closing an existing veterans' home in the upcoming fiscal year.

Senate Bill 1099 would require the Board of Managers' accounts be subject to annual audits by the Auditor General¹⁴ and that the Auditor General would be required to conduct a performance audit of an existing veterans' home (i.e., those under the authority of the Board of Managers) if:

- a CMS survey finds substandard quality of care;
- a U.S. Department of Veterans Affairs survey finds a veterans' home unsatisfactory;
- an audit is requested by either chamber of the Legislature;
- or the Auditor General determines that a performance audit is necessary.

The bill would take effect ninety days after the enactment date. The bill would not take effect unless either House Bill 5919 or Senate Bill 1100 is enacted.

DETAILED FISCAL IMPACT:

These bills would have a significant fiscal impact on the Department of Military and Veterans Affairs (DMVA) and the State of Michigan. In the short-term, the establishment of the Michigan Veterans' Facility Authority (Authority) within the DMVA would subject the department to staffing and logistical costs. The Authority would be authorized to hire employees, who would also need office space with supplies and equipment. While the Authority would be given the power to solicit and receive gifts, grants, or loans, and would be able to issue bonds, these bills do not provide for a specific revenue source for the general operation of the Authority or the debt service of issued bonds.

The DMVA estimates that the first year costs for start-up, operations, and staffing of the Authority would be approximately \$1.5 million. This includes partial year (March through September) costs of \$90,000 for rent and utilities, \$225,000 for information technology, \$450,000 for contracts and consulting services, \$610,000 for staffing¹⁵, and \$125,000 for other various costs. Not including Authority personnel costs, total costs for a full fiscal year of operations are estimated at \$1.18 million. In the long-term, based upon industry standards, the DMVA reports that the Authority will likely require the following personnel (including associated annual salary and benefits cost estimates):

- Chief Executive Officer (\$380,000)
- Operations Director (\$180,000)
- Business Services Director (\$180,000)
- Compliance Officer (\$180,000)
- Clinical Director (\$180,000)
- Social Services Director (\$170,000)

¹⁴ The bill specifies that the Auditor General may appoint a Certified Public Accountant to perform the audit of the Board of Managers' accounts.

¹⁵ Includes the positions of Chief Executive Officer, Operations Director, Business Services Director, Compliance Officer, Human Resources Director, and administrative support.

- Human Resources Director (\$180,000)
- Office Manager (\$150,000)
- 1.5 FTEs for support staff (\$180,000)

Including the estimated annual \$1.18 million for rent, information technology, and other operational costs, these estimates equate to an approximate annual cost of \$2.96 million for the operation and staffing of the Authority.

Additionally, SB 1100 would allow the Authority to issue bonds for the purpose of acquiring land and facilities for new veterans' homes, constructing new veterans' homes, or renovating existing veterans' homes. However, no specific fund source has been identified to pay debt obligations.

The FY 2016-17 budget includes \$1.1 million to adjust staffing and renovate the D.J. Jacobetti Home for Veterans to meet Centers for Medicaid and Medicare Services (CMS) standards. The DMVA estimates that an additional \$600,000 is required to complete the adjustments and become CMS compliant. This would allow the D.J. Jacobetti Home for Veterans to draw per veteran per diem for CMS long-term care. Under federal law, unlike traditional nursing homes or long-term care facilities,¹⁶ only state veterans' homes can draw both CMS long-term care and USDVA Veterans Health Administration long-term care per diems.¹⁷ The FY 2016-17 budget also includes \$1.0 million for the renovation of the fourth floor of the Grand Rapids Home for Veterans to meet CMS standards. However, the DMVA estimates that it would cost approximately \$7.2 million to bring the entire facility to CMS compliance.

The costs associated with building new veterans' homes are entirely dependent upon the number of homes built, where they would be built, and how the homes would be staffed. The USDVA assists in the construction of new veterans' homes,¹⁸ by covering 65% of the construction costs. All new construction would be built to meet USDVA Veterans Health Administration and CMS standards. SB 1098 would allow the Board of Managers to transfer property – likely from the Grand Rapids Home for Veterans estate – to the Authority, which would decrease the costs of building a new veterans' home in west Michigan since the Authority would likely not have to purchase land and would likely be able to use some of the existing infrastructure.

Staffing costs would be dependent upon the decisions of the Authority. The veterans' homes could be staffed by state employees, private employees, or through service

¹⁶ The USDVA also contracts with private nursing homes to provide long-term nursing care services to veterans in underserved areas; http://www.va.gov/GERIATRICS/Guide/LongTermCare/Community_Nursing_Homes.asp; accessed November 28, 2016.

¹⁷ The USDVA offers aid and attendance benefits to eligible veterans, which can be used at private nursing facilities to cover the costs of care; http://www.benefits.va.gov/Pension/aid_attendance_housebound.asp; accessed November 28, 2016.

¹⁸ The current USDVA model for state veterans' homes is the community living center, which is smaller than facilities such as the Grand Rapids Home for Veterans, and focuses more on being a "home" than a traditional medical facility while still providing the same medical and assisted living services; http://www.va.gov/GERIATRICS/Guide/LongTermCare/VA_Community_Living_Centers.asp#

contracts. According to the Michigan Civil Service Commission, in FY 2014-15, the average costs, including salary and benefits, to the state were approximately \$105,600¹⁹ per employee. Average wages and benefits for private sector employees vary by the education, experience, and skill-level of the employees, as well as by region of the state.

Fiscal Analyst: Kent Dell

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

¹⁹ Michigan Civil Service Commission Thirty-Sixth Annual Workforce Report; http://www.michigan.gov/documents/mdcs/36th_AWFR_Complete_511979_7.pdf; accessed October 12, 2016.