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Senate Bills 1109 and 1110 (as introduced 9-15-20)  
Sponsor: Senator Winnie Brinks (S.B. 1109)  
Senator Tom Barrett (S.B. 1110)  
Committee: Families, Seniors, and Veterans

Date Completed: 11-9-20

## **CONTENT**

**Senate Bill 1110 would amend the Michigan's Veteran's Facility Authority Act to do the following:**

- **Require the Michigan Veterans' Facility Authority to provide general oversight and governance of Michigan Veteran Homes and veterans' facilities in the State.**
- **Provide the Authority the power to review and revise a system of oversight and governance for Michigan Veteran Homes.**
- **Prescribe the eligibility requirements for admission to a veterans' facility in the State to include a veteran eligible for United States Department of Veterans Affairs' (USDVA) health care or financial assistance for long-term nursing or day care and a dependent of a veteran who met certain requirements.**
- **Require each veteran and dependent to agree to pay Michigan Veteran Homes a sum based on his or her income and assets as a condition of admission to a facility and specify that a failure to do so would be cause for dismissal.**
- **Require the Michigan Veteran Homes to determine annually the per diem maintenance rate and present the rate to the Board for approval.**
- **Require the Authority to provide fiduciary oversight, in coordination with the State Treasury, for all funds held by Michigan Veteran Homes on behalf of members residing at each veterans' facility.**
- **Require the Authority and Michigan Veteran Homes to create and maintain a Charitable Support Fund into which certain funds created by public acts that the bill would repeal would have to be deposited.**

**Senate Bill 1109 would amend the Michigan's Veteran's Facility Authority Act to do the following:**

- **Create an appeals board within the Michigan Veterans' Facility Authority that would be responsible for hearing all appeals regarding admissions decisions, involuntary dismissals, and requests for internment at a cemetery maintained and managed by the Michigan Veteran Homes.**
- **Prescribe the membership and appointment process for the appeals board.**
- **Specify that a decision of the appeals board would be considered the decision of the Authority and could be appealed to the circuit court as provided by law.**

The bills are tie-barred. Senate Bill 1110 also would repeal several public acts: Public Act 152 of 1885, which establishes and prescribes the duties of the State Veterans' Facility of Michigan and specifies the eligibility for admission into a veterans' facility in Michigan; Public Act 15 of 1921, which specifies the qualifications for admission into a veterans' facility in Michigan for widows, widowers, former spouses, and spouses of any member of the United States Armed

Forces; Public Act 54 of 1901, which provides the appointment of a guardian for members of the Michigan Soldiers' Home in certain cases; and Public Act 313 of 1905, which provides for the disposition of money accumulated in the Post Fund and Posthumous Fund of the Michigan Soldiers' Home.

## **Senate Bill 1110**

### Authority's Powers and Duties

Generally, the Act creates the Michigan's Veterans' Facility Authority within the Department of Military and Veterans Affairs and prescribes its membership, powers, and duties, including the administration of business operations in Michigan veteran's facilities. The bill would require the Authority to provide general oversight and governance of Michigan Veteran Homes and veteran's facilities in the State. The Authority also would have to promulgate rules to implement the Act under the Administrative Procedures Act of 1969. ("Veterans' facility" means a long-term care facility and ancillary facilities for veterans and their dependents as determined by the Authority.)

"Michigan Veteran Homes" would mean the administrative entity that centrally manages and operates veterans' facilities in the State.

The Act specifies that a majority of the appointed and serving members of the Authority's Board of Directors constitutes a quorum of the Board for the transaction of business and that actions of the Board must be approved by a majority vote of the members present at the meeting. The bill would require all members of the Board to be present in person at a meeting of the Board or, if authorized by the Board's bylaws, by use of telecommunications or other electronic equipment.

The Act requires the Authority's Executive Director to administer the business operations of Michigan's veterans' facilities. Instead, the bill would require the Executive Director to administer the business operations of Michigan Veteran Homes.

The Act prescribes to the Authority certain powers, including the power to solicit gifts, grants, and loans from any person and to invest any money of the Authority at its discretion. The bill specifies that the Authority would have the power to review and revise a system of oversight and governance for Michigan Veteran Homes, that would have to include all rules, regulations, and laws necessary for effective management and preserving the health and welfare of veterans and dependents residing at veterans' facilities in the State.

### Eligibility for Admission to Veterans' Facilities

Under the bill, the following individuals would be eligible for admission to a veterans' facility in Michigan:

- A veteran eligible for the USDVA's health care or financial assistance for long-term nursing or day care.
- A dependent of a veteran who either was eligible for the USDVA's health care or financial assistance or was eligible for those benefits at the time of his or her death.

("Dependent" would mean a widow, widower, former spouse, or spouse of a veteran, or a gold star parent. "Gold star parent" would mean an individual who has had a son or daughter die while serving in the United States Armed Forces or in forces incorporated as part of the United States Armed Forces if the son or daughter meets any of the eligibility criteria specified in 10 USC 1126(a)(1) to (3) for a gold star lapel button: the member of the armed forces 1)

lost their lives during World War I, World War II, or during a subsequent period of armed hostilities in which the United States was engaged before July 1, 1985; 2) who lost or lose their lives after June 30, 1958, while engaged in certain actions or conflicts; or 3) who lost or lose their lives after March 28, 1973, as a result of certain international terrorist attacks or military operations as part of a peacekeeping force.)

The bill specifies that as a condition of admission, each veteran and dependent would have to agree to pay the Michigan Veteran Homes, for the use by and benefit of the State, a sum based on his or her income and assets to support the care and services he or she received at the veterans' facility.

The bill would require the Michigan Veteran Homes to determine annually the per diem maintenance rate and present the rate to the Board for approval. The per diem maintenance rate charges would have to be paid in a manner and timeline determined by Michigan Veteran Homes. Money collected in this manner and from the USDVA administration in direct payment for services to veterans at the veterans' facilities would have to be deposited in the Veterans' Facility Operation Fund as described below.

Under the bill, Michigan Veteran Homes could deduct either of the following amounts from money it held on behalf of a veteran or dependent residing at a veterans' facility after the death of the veteran or dependent:

- Money the veteran or dependent owed to Michigan Veteran Homes or the veterans' facility at the time of his or her death.
- Funeral or burial-related expenses incurred by Michigan Veteran Homes or the veterans' facility because of the death of the veteran or dependent.

If, after two years following the death of a veteran or dependent residing at a veterans' facility, Michigan Veteran Homes was unable to find a surviving relative or next of kin of the veteran or dependent, Michigan Veteran Homes would have to deposit any money held on behalf of the veteran or dependent into the Charitable Support Fund as created below.

The bill specifies that a veteran's or dependent's failure to remit payment as agreed upon would be cause for dismissal from a veteran's facility.

#### Fiduciary Oversight

Under the bill, the Authority would have to provide fiduciary oversight, in coordination with the State Treasury, for all funds held by Michigan Veteran Homes on behalf of members residing at each veterans' facility. The Authority could receive money held in the Post Fund and Posthumous Fund created by Public Act 313 of 1905 and the Veterans' Facility Operation Fund created in Section 11 of Public Act 152 of 1885.

The bill would require the Authority and Michigan Veteran Homes to do all the following:

- Create and maintain a Charitable Support Fund into which the Post Fund and Posthumous Fund would have to be deposited.
- Spend money in the Charitable Support Fund, upon approval by the Board, to benefit the members of Michigan Veteran Homes and support the operation of veterans' facilities.
- Create and maintain separate, segregated account for the Veterans' Facility Operation Fund.

The bill specifies that gifts received by the Authority and Michigan Veteran Homes that were not specifically directed for the use and benefit of the State would have to be deposited in the

Charitable Support Fund. The bill also specifies that money in the Veterans' Facility Operation Fund would have to be spent only to support the operations and services provided at a veterans' facility.

## **Senate Bill 1109**

### **Creation of Appeals Board**

The bill would create an appeals board within the Michigan Veterans' Facility Authority, which would be responsible for hearing all appeals regarding admissions decisions, involuntary dismissals, and requests for internment at a cemetery maintained and managed by Michigan Veteran Homes. The appeals board would have to consist of five members who would have to be appointed by the Authority Board as followed:

- Three members who were veterans and represented the interests of congressionally chartered veterans' organizations and have had interactions or involvement at one or more veterans' facilities within the last two years.
- Two members who were veterans and have had interactions or involvement at one or more veterans' facilities within the last two years.

Under the bill, when making the initial appointment to the appeals board, the Authority Board would have to first consider the most recent former members of the prior board of managers created by Section 2a of Public Act 152 of 1885 (which Senate Bill 1110 would repeal). If an insufficient number of former members of the previous board of managers expressed an interest in serving, then the Authority Board would have to consider all eligible applicants.

The bill would require appointment to the appeals board to be made in a manner and for terms established by the Authority Board.

### **Processes and Procedures**

Under the bill, the Authority would have to adopt the processes and procedures that the appeals board would have to follow when consider appeals. These processes and procedures would have to be consistent with the existing processes and procedures of the Authority. The Authority also would have to establish rules for the appeals board to follow that were consistent with rules established in R 32.71 to 32.89 of the Michigan Administrative Code. The bill specifies that a decision of the appeals board would be considered the decision of the Authority and could be appealed to the circuit court as provided by law.

(Rules 32.71 to 32.89 of the Michigan Administrative Code generally regulate state homes for veterans and include rules related to admission, involuntary transfer and discharge, and financial responsibility, among other things.)

Proposed MCL 36.106b (S.B. 1109)  
MCL 36.102 et al. (S.B. 1110)

Legislative Analyst: Tyler VanHuyse

### **FISCAL IMPACT**

The bills would have no fiscal impact on State or local government.

Fiscal Analyst: Bruce Baker

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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.