



BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

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FEB 08 1988

House Bill 5232 (Substitute H-1 as reported without amendment)

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Sponsor: Representative Bob Emerson

House Committee: Senior Citizens and Retirement

Senate Committee: Local Government and Veterans

Date Completed: 11-30-88

RATIONALE

Counties can provide retirement benefits for retired employees either by entering into the State-administered Municipal Employees Retirement System, or by adopting a retirement program under the provisions of Public Act 156 of 1851, which grants powers to county boards of commissioners. Some public employees, however, can bargain collectively and receive retirement benefits that exceed those permitted by the retirement systems created in those Acts. The Attorney General reportedly has issued several opinions in the last decade asserting that Public Act 336 of 1947, the public employment relations Act (PERA), which grants public employees the right to bargain collectively, is the dominant law regulating public employment relations. Attorney General Opinion No. 6244 of 1984 cites several Supreme Court cases in which "the court has consistently held PERA to be the dominant law regulating public employment relations". The Opinion further states that, under PERA, "parties may freely bargain regarding pension and retirement plans, notwithstanding the authority of the retirement board...to administer the retirement system" and if that process "results in contract provisions which conflict with the retirement board's pension classifications, then the contract prevails". This policy, however, can result in situations in which employees of the same governmental unit (who may contribute to the retirement system at equal rates) are eligible for different levels of retirement benefits, depending upon whether they were represented by a bargaining unit, or, if represented, to which bargaining unit they belonged. Some people believe that a county should be permitted to offer collectively bargained retirement benefits, greater than those authorized by law, to all of its employees, regardless of whether they were members of a collective bargaining unit.

CONTENT

The bill would amend Public Act 156 of 1851 to specify that a county board of commissioners could amend or adopt a retirement plan under the Act to provide retirement benefits to members of collective bargaining units in excess of those authorized in the Act, if the county board entered into a collective bargaining agreement under PERA that provided for the expanded benefits. In addition, after December 31, 1987, a county board could amend or adopt a plan to provide the same benefits to other county employees.

MCL 46.12a

FISCAL IMPACT

House Bill 5232 would have no impact on State government. The bill could have an indeterminate impact on counties, depending on which counties took advantage

of the optional retirement benefit changes proposed in the bill.

ARGUMENTS

Supporting Argument

Genesee County recently completed negotiations with its unionized workers, and the resulting contracts call for increased retirement benefits for future retirees. Though the agreed upon benefits are greater than those authorized in Public Act 156 of 1851, based on Attorney General Opinion No. 6244, it is clear that such an extension of benefits for unionized employees is permissible.

The county's Board of Commissioners has adopted a resolution to amend its retirement ordinance to reflect the increased benefits. Reportedly, the county would prefer to grant the same benefit increases to its nonrepresented employees, who comprise about 20% of its workforce. Representatives of the county administration and Board argue that the county retirement system is a contributory system, and that nonrepresented employees contribute the same amount to the retirement system as those represented by a bargaining unit. It would not be fair for the county to administer dual retirement systems in which one group of retirees would receive greater benefits than another group, even though both contributed equally to the retirement systems. Without passage of the bill, employees who are not represented by bargaining units would have to organize and bargain collectively with the county in order to receive equal retirement benefits.

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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.

H.B. 5232 (11-30-88)