



**House  
Legislative  
Analysis  
Section**

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Dept. of Natural Resources

## EARLY RETIREMENT FOR CONSERVATION OFFICER

### House Bill 4430 (Substitute H-3)

Sponsor: Rep. Thomas Scott

1st Committee: Senior Citizens and Retirement

2nd Committee: Appropriations

### Senate Bill 479 (Substitute H-2)

Sponsor: Senator Phil Arthurhultz

Senate Committee: Appropriations

House Committee: Appropriations

### First Analysis (5-15-90)

### THE APPARENT PROBLEM:

Michigan's state police are eligible under the State Police Retirement Act for retirement with full benefits after 25 years of service, in recognition of the job risks they face daily. Under the State Employees' Retirement Act, however, the Department of Natural Resources' conservation officers, while classified as certified peace officers with arrest authority for violations of all state laws, have no early retirement option.

Conservation officers point out that they are subject to the same on-the-job stress, physical assaults, and fluctuating work schedules as state police. The job evolved from the traditional position of game warden, and, as the laws governing conservation and the environment expanded, so did conservation officers' duties, and the accompanying dangers. Conservation officers enforce environmental protection laws by inspecting trucks carrying hazardous, toxic, and carcinogenic waste; they protect the state's natural resources and wildlife; and they are required to be on call to respond immediately to confront armed violators such as poachers or game law violators. Further, with only some 260 conservation officers serving 83 counties, conservation officers work with no relief shift, and — unlike police officers — are expected to respond to public inquiries and complaints at home, at any time of the day or night.

Conservation officers maintain that their profession is just as dangerous, if not more so, as that of state police officers, and that they should be entitled to the same retirement benefits. The Civil Service Commission recently granted an increase that brought conservation officers' salaries closer to those of state police, and conservation officers feel that, after 25 years of police work they, too, should have the right to retire regardless of age.

### THE CONTENT OF THE BILLS:

House Bill 4430 (H-3) and Senate Bill 479 (H-2) would amend the State Employees' Retirement Act to provide Department of Natural Resources (DNR) conservation officers with retirement benefits similar to those provided Department of State Police officers. Senate Bill 479 would make the following provisions for conservation officers (defined under House Bill 4430 as employees of the Department of Natural Resources who have sworn to the prescribed oath of office and who have been designated as peace officers):

**Service Retirement Allowance.** The bill would permit those members who were conservation officers as of April 1, 1991 and who had 25 years of credited service to retire if

20 years of this service, including the last two, had been served as a conservation officer. Those who were not conservation officers as of April 1, 1991, could retire after attaining 25 years of credited service, but the bill would require that they had served 23 years of this service including the last two, as a conservation officer. Members who elected to retire under these provisions would receive a regular retirement allowance equal to 60 percent of their annual compensation for their most highly compensated years of service, or the actuarial equivalent of this amount in a reduced retirement allowance payable for the life of the member and his or her beneficiary.

A member who retired under the bill's provisions before age 65 could elect to have his or her regular retirement allowance equated on an actuarial basis to provide an increased retirement allowance payable to age 65, and a reduced retirement allowance payable after age 65. The retirant's increased retirement allowance payable to age 65 would be equal to the sum of the reduced retirement allowance payable after age 65, together with the estimated social security primary insurance amount.

**Early Retirement Period.** The bill would also provide a "window period" to permit members to retire at age 50, provided that the member had 10 years of credited service as a conservation officer, including the last two years before retirement. The window period would extend from April 1, 1991, to April 1, 1992, for retirement allowance effective dates of May 1, 1991 to July 1, 1992. An application for retirement under this provision would have to be made between April 1, 1991, and April 1, 1992. Members who elected to retire under this provision would receive a retirement allowance equal to two percent of annual compensation for their most highly compensated 24 consecutive months of service as a conservation officer, times the number of years — including any fraction of a year — of service credited under the act. The allowance could not exceed 60 percent of the member's annual compensation for the most highly compensated 24 consecutive months of service as a conservation officer.

**Payment to beneficiaries.** If a member died before receiving payment of his or her retirement allowance in an aggregate amount equal to the accumulated contributions standing to the retirant's employees' savings fund account at the time of retirement, the difference between his or her accumulated contributions and the amount of the retirement allowance already received would be paid to the person so nominated by the retirant, or, if there were no such designated person surviving, to the retirant's legal representative or estate.

H.B. 4430 & S.B. 479 (5-15-90)

The provisions of Senate Bill 479 would not prohibit a conservation officer who did not meet the requirements of the bill to qualify for a retirement allowance under any other provision of the act. The director of the Department of Natural Resources would certify to the retirement board that a member who applied to retire under the above provision was a conservation officer.

The bills are tie-barred to each other, and would become effective April 1, 1991.

MCL 38.1 et al.

### **FISCAL IMPLICATIONS:**

According to the House Fiscal Agency, the bill would result in a net cost of \$500,000 to \$700,000 annually. The increased retirement benefits would cost \$800,000 to \$1 million annually, but would be partially offset by savings from the early retirement provision. (4-9-90)

### **ARGUMENTS:**

#### **For:**

The bill would provide conservation officers with an improved retirement benefit option, would give the profession the competitive edge to attract better qualified applicants, and would help make the job a young person's profession. It has been demonstrated in court cases across the country that age is a "bona fide occupational qualification (BFOQ)" in professional law enforcement. Even in the relatively fit, certain cardiovascular and aerobic functions decline when one reaches the 45-50 age range, perhaps to the extent that a person's ability to perform satisfactorily in all aspects of police work could be seriously impaired. Conservation officers are exposed to the same physical rigors, dangers, and risks as other police officers; must meet the same training standards; and should be permitted the option of early retirement for their own safety, and for the security of their dependents.

#### **For:**

Michigan has two police agencies and should not treat them differently. The bill would give conservation officers benefits equal, in most respects, to those of state police. While some may argue that conservation officers, unlike state police, participate in and receive Social Security benefits, and therefore ultimately receive more in retirement benefits, it can also be argued that state police have the option of investing that 7.5 percent Social Security contribution into, for example, deferred compensation. In any case, many state police, once retired, are relatively young and eligible for reemployment; and many find new careers in positions that are covered by Social Security.

**Response:** While it is true that state police have the option of investing the portion of their salary that isn't withheld for Social Security contributions, it is generally true that the average person doesn't do so. In addition, although officers hired by the state police after March 31, 1986, now have the Medicare portion of their Social Security contribution paid for by the state, older state police officers are not eligible for Medicare benefits unless they do begin a second career.

#### **Against:**

Although the bill might meet the interests of fairness, it would also contribute to the current trend toward "leapfrogging" in retirement benefits: one group of employees is granted additional benefits, and is soon followed by other groups seeking similar gains. If

conservation officers are granted an early retirement option, for example, other state employees performing "hazardous work" will feel entitled to the same benefits. Enacting piecemeal legislation, such as this, may be good strategy for the various lobbying interests involved, but it makes retirement programs costly to administer. What is needed, instead, is an overall policy under which comparable benefits would be paid across the board for all employees, while taking into account the fact that some jobs are more stress producing than others.

#### **Against:**

The bill would increase the cost of providing retirement benefits to conservation officers. While the Department of Natural Resources claims that this increase could be paid for by increasing fees charged by the department, other claim that retirement costs would rise more quickly than could possibly be covered by fee increases.

### **POSITIONS:**

The Department of Natural Resources supports the bills. (5-14-90)

Michigan Conservation Officers supports the bills. (5-10-90)

The Conservation Officers Retirement Committee supports the bills. (5-11-90)

The Police Officers Association of Michigan supports the bills. (5-14-90)

The City of Grayling Police Department supports the bills. (5-11-90)

The Gladwin County Sheriff's Department supports the bills. (5-11-90)

The Marysville Police Department supports the bills. (5-11-90)

The Crawford County Sheriff's Department supports the bills. (5-11-90)

The Department of State Police has no position on the bills. (5-14-90)

The Retirement Bureau in the Department of Management and Budget opposes the bills. (5-10-90)

The Department of Management and Budget opposes the bills. (5-14-90)