



**House  
Legislative  
Analysis  
Section**

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## **VETERAN'S TUITION GRANT; DELAY EXTENSION**

**House Bill 4316 as introduced  
Revised First Analysis (6-6-95)**

**Sponsor: Rep. Terry London  
Committee: Higher Education**

### ***THE APPARENT PROBLEM:***

Currently, the Michigan Veteran's Trust Fund provides tuition grants enabling children of veterans to attend Michigan public institutions of higher education under certain circumstances. In order to be eligible, a child must, among other things, be age 16 through 22, and the legal offspring of a veteran who was either missing or killed in action, died as a result of service-related injuries, or is rated 100 percent disabled due to injuries sustained while in the armed forces. Although the trust fund determines an individual's eligibility for a tuition grant, the federal Department of Veteran's Affairs (formerly known as the Veteran's Administration) is responsible for determining whether a particular veteran's illness, injury, death, or disease arises from that veteran's service.

Unfortunately, the federal agency does not always complete these determinations in a timely fashion. It has on occasion taken the agency a rather long time to make some of its determinations, not only those concerning a particular veteran's medical problems, but also those concerning whether certain medical problems are the result of service-related exposures to certain chemicals. The determination of whether veterans' exposures to the defoliant known as "Agent Orange" during service in Southeast Asia is causally related to various diseases, symptoms, and illnesses suffered by many of these veterans is, by many accounts, one of those situations.

Because of the difficulty in establishing, first, whether a particular veteran was exposed to Agent Orange, and then whether that individual's health problems are related to that exposure, the federal agency's determinations on this issue have been subject to occasionally lengthy delays (sometimes for periods as long as 7 years). These delays, caused both by the federal government's unwillingness to accept the possibility that exposure to Agent Orange had deleterious effects upon those personnel who came in contact with it, as well as

those due to administrative overload, have had the negative effect of occasionally barring certain people's access to benefits solely due to the delay. As a result of these delays it is possible that the child of a veteran, who was otherwise eligible for tuition payment through the veteran's fund, could become ineligible due to his or her age while waiting for a determination from the federal agency on whether that child's veteran parent had died or become disabled as a result of service related exposure to Agent Orange.

### ***THE CONTENT OF THE BILL:***

Current law provides that certain children of Michigan veterans are not required to pay tuition while they attend one of Michigan's state supported educational or training institutions. The child must be between 16 and 22 years old, a resident of Michigan for the prior 12 months, and the veteran parent must have died or become 100 percent disabled as the result of service or participation in a military action, or be officially listed as missing in action.

The statute also offers extensions that allow people over the age of 22 to be eligible under certain circumstances. The bill would grant an additional extension in cases where the "United States Veteran's Administration" delayed for more than six months in determining whether the Michigan veteran had died or been totally disabled as a result of exposure to the defoliant known as Agent Orange. In such a situation, the person's eligibility would be extended beyond his or her 22nd birthday for a period of time equal to the period of the delay. (Note: The bill refers to the United States Veteran's Administration; that agency is now the United States Department of Veteran's Affairs.)

MCL 35.111

House Bill 4316 (6-6-95)

## **BACKGROUND INFORMATION:**

Public Act 4 of 1943 created a post-war reserve fund of \$50 million "for the purpose of liquidating Michigan's obligations, after the termination of the war, to its returning service men, their widows, or dependents." Public Act 4 authorized the State Administrative Board to transfer immediately \$20 million from the general fund to the reserve fund, and directed the board and the state treasurer to transfer from the general fund to the reserve fund "accruing surplus revenues as promptly as accruing unappropriated revenues shall warrant, until the additional transfers shall bring the post-war reserve fund up to the total of" \$50 million. The post-war reserve fund was subsequently transferred to the Michigan Veterans' Trust Fund when it was created by Public Act 9 of 1946. Public Act 9 specified that \$50 million of the transferred funds was to remain in the MVTF as a trust, and \$200,000 of the MVTF was to be transferred to an emergency loan fund to be used for veterans or their legal dependents "who may be engaged upon a course of instruction under any state or federal educational program." According to the act, income accruing in the MVTF in excess of the \$50 million and the \$200,000 is to be used by the MVTF trustees to provide for the needs of Michigan veterans and their wives and dependents.

The MVTF trustees also are responsible for administering the tuition grant program. The tuition grant program was established by Public Act 245 of 1935 and was originally administered by the Department of Education. The program was transferred to the auspices of the MVTF trustees in 1966. Public Act 245 specifies that a child of a disabled or deceased veteran, or of a veteran who is missing in action, must be admitted to and may attend a state tax-supported educational or training institution of a secondary or college grade, and exempts the child from tuition and tuition-type fee requirements. The MVTF trustees are responsible for determining the eligibility of the applicant for this benefit and for determining the accuracy of the charges submitted to the trustees by the institutions on account of the applicant's attendance at the institution. According to Public Act 245, the appropriations provided to the institutions or to the Department of Education are to be provided to the MVTF board of trustees to reimburse the fund for the tuition grants. However, the state has only made such a transfer of money to the MVTF for

that specific purpose twice, and has not done so at all since 1969.

According to the Department of Management and Budget, the Michigan Veterans' Trust Fund has been liquidated twice. The first time, pursuant to Public Act 277 of 1959, was to meet the cash requirements of the general fund, as specified in Public Act 277. Although Public Act 277 called for complete restoration of the MVTF by July 1971, subsequent amendments to the Michigan Veterans' Trust Fund law provided for additional grants or loans from the MVTF, extended the repayment period, and in Public Act 119 of 1976, again liquidated the fund. Public Act 119, however, also called for restoring the MVTF to the principal sum of \$49 million by July 1993. This did not occur officially until July 13 of 1994 when Public Act 288, which among other things required the transfer of just over \$11.5 million from the general fund into the MVTF, was signed into law.

## **FISCAL IMPLICATIONS:**

According to the House Fiscal Agency, the bill would increase state costs by extending eligibility for tuition exemptions. The tuition exemption program is funded through earnings of the Michigan Veterans Trust Fund. According to the HFA there are currently 83 Michigan claims arising from Agent Orange exposure under adjudication with the U.S. Department of Veterans Affairs. By extending eligibility to the children involved in those claims the bill could extend the trust fund's expenditures by approximately \$300,000. (5-17-95)

According to the Michigan Veterans Trust Fund, the claims of 80 Michigan veterans for Agent Orange-related medical problems were approved by the federal agency in 1995. At present there are about 1,700 other cases where a veteran is seeking a determination that he or she is suffering health problems arising from contact with Agent Orange which are still pending or under appeal. This would provide a substantially higher number of potential claimants than has been estimated by the HFA should even a portion of these claims be approved by the U.S. Department of Veteran's Affairs. (5-18-95)

## **ARGUMENTS:**

### **For:**

When a determination from the federal Department of Veteran's Affairs is delayed as a result of further studies, investigations, or plain incompetence, the veteran's children should not be forced to bear the burden of that delay. Given the often lengthy delays in the federal agency's determinations related to Agent Orange exposure, some individuals who are otherwise eligible for tuition exemptions can become ineligible due to their age solely as a result of the delay. The federal government has only recently begun to recognize that exposure to Agent Orange may be responsible for the death or disability of a number of veterans. If someone is to suffer as the result of these administrative delays it should not be the child of the veteran. Such delays are beyond the control of the veterans' children and should not be used to make an otherwise eligible child ineligible.

The extension offered by this bill would be very limited. The individual would only be given an extension equal to the time of the agency's delay. He or she would not be given a windfall, no extra time in college would be given, and he or she would not profit by the delay, but neither would he or she be penalized because of the delay. The people eligible for this extension would in all cases be people who were already eligible for the tuition exemption. This extension would only be available to those people who, due to the federal government's delay, would be excluded from eligibility solely by reason of that delay. It would not, as some might argue, provide a loophole for ineligible people to gain access to the fund's resources, nor would it require the fund to provide tuition for persons who failed to apply in a timely fashion for other reasons.

Finally, granting an extension to veteran's children for delays caused by the federal agency may serve to encourage the agency to expedite its determination process.

### **Against:**

As a result of the state's failure to reimburse the Michigan Veteran's Trust Fund for tuition grants as well as the increased costs of tuition, the veteran's fund may not have the money to meet current demands, much less the increased demand that would result from this bill. There is, according to fund administrators, a very real chance that the fund could be forced to liquidate portions of the trust's

principal to meet current expenses in 1995 or 1996, even without the added expense of increasing eligibility for tuition grants.

Current law requires the fund to pay for tuition or any other fee that takes the place of tuition. As a result the fund is currently paying for such fees as student activity fees and, in some cases, parking fees. These cause a significant drain on the fund, as do payments made to cover graduate studies for those students who have completed their undergraduate studies before they reach 22 years of age. If the current law were changed to limit eligibility to students pursuing undergraduate studies and to limit payment to tuition only, the fund would possibly be better able to meet the increased demands proposed by this bill.

The federal veteran's agency has delayed in making some of its determinations for as many as seven years. In most cases, the initial decisions may then be appealed. This bill does not indicate whether the time taken for an appeal would be considered part of the delay. If this period of time is included it could encourage appeals and lengthen the period of an individual's extension even where the federal agency may have made its initial determination in a timely fashion.

Furthermore, it is not unlikely that the courts would require that the fund apply this exception to all cases where the delay was the fault of the federal veteran's agency, or worse, where the delay was simply the fault of someone other than the veteran or his or her child. Even without being extended by the court system, this bill could also open a floodgate of claims if other groups (those veterans suffering from "Persian Gulf syndrome," for example) who also want exceptions are added to this legislation by later amendments. There is also a risk that retroactive applications for tuition may be made by people who have already completed college and later discover that they would have been eligible for tuition under this bill.

### **Response:**

The number of claims made by veterans for health problems due to Agent Orange exposure which will be effected by this law may be significantly smaller than the estimates provided by the MVTF. The majority of Agent Orange claims are for skin diseases which would not meet the criteria of death

or 100 percent disability needed to make the veteran's child eligible for a tuition grant. Only a small percentage of the Agent Orange claims are likely to arise from the death or 100 percent disability of the veteran.

***POSITIONS:***

The Oakland County Veterans' Services Division supports the bill. (5-19-95)

The Michigan Veterans Trust Fund currently has no position on the bill, but is concerned about its potential effect on the fund's already limited resources. (5-18-95)

The Veterans of Foreign Wars opposes the bill. (6-5-95)