

MILITIA REIMBURSEMENT REPEAL

House Bill 5750 as introduced First Analysis (5-12-98)

Sponsor: Rep. Mary Schroer
Committee: Appropriations

THE APPARENT PROBLEM:

Dating from the World War I era, a statute in the Michigan code has required reimbursement to men enlisted in the permanent organized militia, or what is commonly called the Michigan National Guard. According to committee testimony, the original reimbursement for personal expenses was intended to cover the cost of boarding a soldier's horse. The earlier statute was repealed in 1953, and replaced by a statute that reimburses enlisted soldiers of the Michigan National Guard \$2 per day for personal expenses. The average National Guard member receives \$28 due to this provision.

During the 1980s, appropriations were not made to fund the statutorily required per diem, and National Guard enlisted soldiers did not receive the reimbursement.

According to the House Fiscal Agency, eleven former National Guard members filed a lawsuit in 1991 to receive the reimbursement. Subsequently their suit was expanded to a class action. The state lost the lawsuit in 1996 [*Weiman v. State of Michigan Department of Military Affairs and Department of Treasury*] and was ordered to pay the per diem through fiscal year 1996-97. Supplemental funds of \$2,400,000 were appropriated to the Department of Military and Veterans Affairs for fiscal year 1996-97, to enable the department to begin paying the lawsuit obligation. The department plans to pay the per diem for fiscal year 1997-98, and the executive budget recommendation included \$340,000 to fund the statutory per diem requirement for fiscal year 1998-99.

Some have argued that the statute providing for the \$2 per diem is outdated and should be repealed. Others argue further that the money used to pay out the per diem to enlisted soldiers could more effectively address the needs of soldiers if it were redirected in a lump sum to augment an existing program or start a

new program, rather than meted out in modest amounts to individuals.

THE CONTENT OF THE BILL:

House Bill 5750 would repeal Public Act 140 of 1953, the reimbursement of enlisted men for personal expense act.

The act, comprising two sections, provides for reimbursement for an enlisted man of the permanent organized militia who participates in encampments, maneuvers or other outdoor exercises under the provisions of the National Defense Act of June 3, 1916, or similar laws passed by the U.S. Congress. The act requires that reimbursement be fixed by the state military board at \$2.00 per diem and charged to the appropriations made for the maintenance of the permanent organized militia of the state. The act's second section repeals Public Act 70 of 1917. Under House Bill 5750, both sections would be repealed.

MCL 32.261 and 32.262

FISCAL IMPLICATIONS:

The House Fiscal Agency notes that elimination of this per diem would save the Department of Military and Veterans Affairs \$340,000 annually. (5-6-98)

ARGUMENTS:

For:

This \$2 per diem, set 45 years ago, is so modest as to be insignificant to individuals. A National Guard member who serves an average of 14 days receives only \$28 annually. However, the total annual appropriation for this per diem is, indeed, significant: \$340,000. This money can better serve soldiers if it is used to substantially enhance a program that

provides much needed service. To distribute such modest amounts to individuals dissipates the potential effectiveness of the funds. If Public Act 140 of 1953

were repealed, the legislature would be better able to direct these funds.

Against:

This per diem, despite its modest size, can be likened to an expense allowance. That allowance, however small, should be continued for the more than 11,400 enlisted soldiers of the Michigan National Guard who are eligible to receive it. It should be noted that members of the Guard are called upon to train for, and to risk their well-being in, war, national disasters, and civil disruptions. Their expense allowances, however small, should not be discontinued.

POSITIONS:

The Department of Military Affairs has no position on the bill at this time. (5-11-98)

Analyst: J. Hunault

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