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SFA BILL ANALYSIS

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Senate Bill 757 (as reported without amendment)
Sponsor: Senator Bill Schuette
Committee: Human Resources, Labor and Veterans Affairs

Date Completed: 12-9-97

RATIONALE

On April 11, 1997, the Attorney General ruled that Public Act 295 of 1996, which would have reduced State appropriations to universities that offer paid benefits to their employees' same-sex partners, violated university autonomy under the State Constitution. Currently, the University of Michigan and Wayne State University offer benefits to employees' same-sex partners and Michigan State University trustees recently voted to extend benefits to same-sex couples. (See **BACKGROUND**, below, for eligibility requirements.) Some people believe that money from taxpayers, which helps fund these State institutions, should not be used to provide benefits to unmarried partners of university or other State employees.

CONTENT

The bill would create a new act to prohibit State employers from spending money that was received from the State to provide their employees' unmarried partners with health or other benefits. The bill, however, would not prohibit a State employer from spending State money to provide benefits to a State employee's parent, step-parent, sibling, spouse, child, step-child, or foster child.

"State employer" would mean the State, a department, board, commission, or authority of the State, or a State public university or college, that employed an individual on a part-time, full-time, or seasonal basis. "Unmarried partner" would mean an adult individual who was residing with an employee of the State employer, unless that individual also was an employee of the State employer entitled by his or her employee status to health or other benefits from the State employer.

BACKGROUND

The University of Michigan and Wayne State University have offered same-sex partners' benefits since 1995. The University of Michigan requires same-sex couples to have declared their commitment in a ceremony or to register as a couple with the City of Ann Arbor. Wayne State University requires three items of proof of long-term commitment, such as joint checking accounts and signed agreements. Michigan State University will require that employees meet eight requirements, including a signed partnership agreement and a shared home. The benefits include health insurance, family and medical leave, child care service, access to libraries and recreational facilities, and postretirement benefits.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Same-sex marriages are prohibited by State law, and tax money should not be used to support relationships that are not legally recognized. Some people believe that by extending benefits to unmarried partners of university employees, the universities have made illegal contractual agreements and avoided the legality issue to enhance the image of diversity and political correctness. By prohibiting this activity, the bill would codify the belief that traditional marriage is the building block upon which this society rests.

Supporting Argument

The bill would eliminate issues of discrimination in the eligibility for benefits of unmarried couples by excluding *all* unmarried homosexual or heterosexual partners of State employees from receiving State-paid benefits from a State employer. Currently, benefits are extended only to spouses and families of State employees. Recently, some companies and universities have begun extending benefits to same-sex partners' of employees. Some people believe that if benefits were to be extended to same-sex couples, then benefits also should be provided for all live-in, committed, homosexual or heterosexual relationships.

Response: Heterosexual couples have the option of getting married and thus may receive benefits under current law, and could continue to do so under the bill. Michigan law, however, prohibits same-sex couples from getting married and, therefore, they do not have an opportunity to receive benefits, even if they are in a committed relationship.

Opposing Argument

The Attorney General ruled that although the State could withhold money from community colleges that extend benefits to employees' partners, it could not do the same in regard to universities since they are autonomous under the State Constitution. "The fiscal autonomy of university boards includes the ability to determine the compensation of their employees" and "...protection against the legislative reduction of already appropriated funds". Although the university governing boards have autonomy over educational and financial decisions affecting their university, they are not immune from criminal and civil laws that protect public policy. The bill, however, would address matters pertaining to university appropriations and expenditures.

Opposing Argument

The bill would vaguely define unmarried partner as "an adult individual who resides with an employee of the state employer...". This definition could include many individuals such as traditional "roommates" or an adult residing with a family. The bill's definition would exclude benefits for various groups of adult individuals, not just same-sex couples. Rather than defining "unmarried partner", the bill should define the term "family member" and prohibit State employers from spending money that was received from the State to provide benefits for a person other than an employee of the State or a family member of an employee of the State.

Response: The bill specifically would allow the expenditure of State money to provide benefits for parents, children, siblings, step-parents, step-children, and foster children.

Legislative Analyst: N. Nagata

FISCAL IMPACT

There would be no fiscal impact on State government because health and other benefits are not offered to unmarried partners of State employees; there would be no fiscal impact on local government because local government employees are not included under the provisions of this bill. The bill does include Michigan public colleges and universities within the definition of "state employer". Although the bill would apply to unmarried partners of either the same or opposite sex, higher education institutions offer these benefits only to same-sex partners of their employees. Of the 15 public universities and 28 community colleges, four institutions currently offer health benefits to unmarried same-sex partners of their employees: the University of Michigan (Ann Arbor, Dearborn, and Flint campuses) and Wayne State University. Annual university costs for these benefits are estimated to be $183,920 and $28,546, respectively, for an annual total of $212,466. Michigan State University will begin to offer benefits to qualified unmarried same-sex partners of their employees on January 1, 1998. The FY 1997-98 State appropriation for these five universities is $859,662,533.

Since the universities' costs for unmarried partners' benefits could be financed by some combination of State appropriations, tuition revenue, or other auxiliary revenue, the bill's prohibition regarding expenditure of State money for these benefits could have minimal fiscal impact on the universities.

Fiscal Analyst: E. Jeffries