

## **REPEAL MILITIA REIMBURSEMENT**

### **Senate Bill 543 as passed by the Senate First Analysis (6-2-99)**

**Sponsor: Sen. Philip E. Hoffman  
House Committee: Veterans Affairs  
Senate Committee: Human Resources,  
Labor, Senior Citizens and Veterans  
Affairs**

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

Public Act 140 of 1953 requires the reimbursement for personal expenses of "each enlisted man of the permanent organized militia" who participates in certain outdoor exercises. Under the act, the reimbursement rate is set at \$2.00 per day. According to information supplied by the Department of Military and Veterans Affairs, the reimbursement requirement reportedly dates back to 1916; a time when militia members used their own horses to transport supply wagons, artillery, equipment, and other militia members to Camp Grayling for training. Under Public Act 70 of 1917, which initially set the \$2.00 per diem rate, the reimbursement was intended to help provide for the feeding and care of the members' horses during the training exercises. The earlier statute was repealed in 1953 and replaced by Public Act 140, but the \$2.00 per diem requirement was retained. The per diem payment averages about \$30 per guard member per year.

Due to budget crises in the early 1980s, the \$2.00 per day reimbursement payments were stopped, and from 1982 to 1997, no payments under the act were made. In 1991, eleven former National Guard members sued the state to recover the payments; the lawsuit was later expanded to a class-action suit. The Ingham County Circuit Court found in favor of the National Guard members, and the Michigan Court of Appeals upheld the decision [*Weiman v State of Michigan*, No 186534, July 19, 1996 (unpublished)]. In 1997, the state supreme court rejected the state's request for an appeal. A supplemental appropriation was made for fiscal year 1996-97 in the amount of \$2.4 million, and an additional \$2.8 million was appropriated for fiscal year 1998-99 in order to make back payments plus interest (retroactive to 1988) and to cover other related legal and administrative costs of settling the case. The 1998-99 fiscal year budget for the Department of Military and Veterans Affairs included \$340,000 for per diem payments to current guard members.

Some people feel that the reimbursement provision is outdated and unnecessary and should be eliminated. It has been suggested that the funds, which currently amount to approximately \$340,000 a year, could better be used to enhance grants to veterans service organizations or used for educational assistance programs for guard members similar to those offered by many other states.

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

The bill would repeal Public Act 140 of 1953, which requires that each enlisted man of the permanent organized militia who participates in encampments, maneuvers or other outdoor exercises under provisions of the National Defense Act or other similar acts of Congress be reimbursed for personal expenses. Under the act, the state military board is required to set the reimbursement in the amount of \$2.00 per day. The per diem reimbursement is charged to appropriations made for the maintenance of the permanent organized militia of the state.

MCL 32.261 and 32.262

#### ***BACKGROUND INFORMATION***

The bill is identical to House Bill 5750, which was introduced in the 1997-1998 legislative session. The bill was reported from the Appropriations Committee, but was later rereferred back to the committee.

#### ***FISCAL IMPLICATIONS:***

According to the House Fiscal Agency, the fiscal year 1998-99 Military and Veterans Affairs departmental budget included \$340,000 for per diem payments to currently enlisted National Guard members. The bill

would allow that appropriation to be eliminated in future years. (5-26-99)

### **ARGUMENTS:**

#### **For:**

The requirement that National Guard members be paid \$2.00 for each day they spend in outdoor training exercises is outdated and unnecessary. The annual individual amount, about \$30, would not result in a hardship for members if it were to be eliminated, as members are compensated in other ways. However, the \$340,000 appropriated annually for the collective reimbursements could be used to fund programs of greater benefit to National Guard members. For example, the proposed 1999-2000 budget for the Department of Military and Veterans Affairs includes \$2 million to establish a Michigan National Guard Education Assistance Program. The House-passed version of Senate Bill 369, which is waiting full Senate action, would provide for eligible, active members to receive up to 50 percent of the total cost of tuition, up to \$2,000 per year. However, the program would not be implemented unless Public Act 140 of 1953 were repealed, which Senate Bill 543 would do. Reportedly, Michigan is one of only a handful of states that does not offer some kind of educational assistance program to National Guard members. It is time to eliminate this archaic reimbursement, which was meant originally to help members board their horses while participating in training exercises, and use the money to offset programs that will offer a greater benefit to members of the National Guard.

#### **Against:**

Even though the amount is small, the per diem reimbursement represents a commitment to those who serve in the Michigan National Guard, and as such should not be eliminated unless there is some sort of guarantee that the money will be used to benefit National Guard members or their families. The tuition assistance proposed in this year's budget bill for the Department of Military and Veterans Affairs would be a good first step, but it is only a one-year appropriation. There is no guarantee that the program would be continued beyond the first year. Further, the House-passed version of the bill would open the assistance program to reservists of the other branches of military service, such as Army, Navy, and Air

Force reserves. The \$2 million figure in the budget bill is the amount originally expected to cover the costs of the program for guard members only, and may not be sufficient to cover the addition of all reservists.

Senate Bill 142, which is waiting Senate committee action, would create the Michigan National Guard Education Incentive Act and establish the education assistance program on a permanent basis. Perhaps further action to eliminate the \$2.00 per diem reimbursement should be delayed until the assistance program is put into place on a permanent basis. As members of the National Guard assist in national disasters and civil disruptions, and provide support for troops overseas, their expense allowances, however small, should not be discontinued unless the money would indeed be used to fund beneficial programs in the future.

#### **Against:**

Rather than repealing the act and eliminating the \$2.00 per day reimbursement, the per diem amount should be increased. Even if an educational tuition assistance program is established, not all guard members could or would benefit from it. The yearly amount may seem small, but it still offsets some of the costs associated with leaving home and work for a couple of weeks a year to participate in outdoor training exercises. With enrollment numbers in all branches of the military declining, funding that provides any type of incentive to recruit and retain members of the National Guard should be encouraged, not eliminated.

### **POSITIONS:**

The Department of Military and Veterans Affairs supports the bill. (6-1-99)

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