



Senate Fiscal Agency  
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BILL ANALYSIS

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House Bill 4117 (Substitute H-1 as reported without amendment)

Sponsor: Representative John Proos IV

House Committee: Local Government and Urban Policy

Senate Committee: Local, Urban and State Affairs

Date Completed: 4-14-05

### **RATIONALE**

When an employee is called into active duty in the National Guard or reserves, he or she usually loses the pay from the civilian job. While the employees are paid by the military for their service, they typically earn far less than they did at their civilian jobs. Some employers provide their employees who have been called into active military service with "gap" pay to cover the difference in between the employees' civilian and military wages, allowing their families to meet their financial obligations during the employees' deployment.

Recently, a charter township considered establishing a policy to provide gap pay to an employee serving with the National Guard. Township officials were advised, however, that there were no State law provisions that authorized a charter township to grant gap pay, and doing so could leave the township liable for an unauthorized allocation. Some people believe that townships and other local units of government should be allowed to provide gap pay to their employees serving in active military service.

### **CONTENT**

**The bill would amend Public Act 133 of 1955 (which requires employers to grant leave for an employee's active military service) to allow local governmental units to provide differential pay for their employees who entered into active uniformed service.**

Specifically, a local unit of government could provide by ordinance or resolution or through personnel policy a differential pay program or for a specific number of paid

days of leave for employees of the local unit of government who requested or were required to take a leave of absence to enter into active service in a uniformed service.

"Differential pay program" would mean a program through which the local unit of government agreed to pay during the leave of absence all or part of the difference between the amount the employee was paid by the local unit of government and the amount the employee received through his or her uniformed service, if the amount paid by the local unit exceeded the amount paid by the uniformed service.

"Local unit of government" would mean a city, village, township, or county.

Public Act 133 of 1955 defines "uniformed service" as the armed forces, the reserve component, the National Guard in active service or active state service, the commissioned corps of the Public Health Service, and any other category of persons designated by the president or governor in time of war or national emergency.

The Act defines "active service" as service, including active state service or special duty required by law, regulation, or pursuant to an order of the governor. Active service also includes continuing service of an active member of the National Guard and the defense force in fulfilling that active member's commission, appointment, or enlistment. "Service" means active service, active state service, or in the service of the United States.

Proposed MCL 32.273a

## **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**

In late 2004, a St. Joseph Charter Township police officer who had been called into active duty with his National Guard unit reportedly requested that the township provide him with gap pay to assist him in supporting his family. The township board wished to help the officer by providing the gap pay, but the township's legal counsel apparently believed that the township did not have the authority to do so under current State law. Reportedly, the township nevertheless chose to provide gap pay, as some other municipalities evidently do. By allowing this in statute, the bill would enable a local unit of government to grant an employee gap pay when he or she was called into active military service without risking liability for unauthorized allocations. Differential pay programs would help compensate for the sacrifices made by members of the National Guard and reserves, and their families.

Legislative Analyst: J.P. Finet

## **FISCAL IMPACT**

The bill would have no fiscal impact on the State. The bill would not affect local unit revenue, but could have an impact on expenditures in units that used the bill's provisions.

Fiscal Analyst: David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.