Legislative Analysis

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PROHIBIT DOMESTIC PARTNERS BENEFITS AND EXCLUDE FROM COLLECTIVE BARGAINING

House Bills 4770 & 4771
Sponsor: Rep. Dave Agema
Committee: Oversight, Reform, and Ethics

Complete to 6-21-11

A SUMMARY OF HOUSE BILLS 4770 & 4771 AS INTRODUCED 6-16-11

The bills would prohibit public employers from including domestic partner benefits in their public employee compensation packages, and would make domestic partner benefits a prohibited subject in collective bargaining. House Bill 4771 is tie-barred to House Bill 4770 so that it could not go into effect unless House Bill 4770 is also enacted into law. A more detailed description of each bill follows.

House Bill 4770 would create a new act to be known as the Public Employee Domestic Partner Benefit Restriction Act. The new act would prohibit a public employer from providing medical benefits or other fringe benefits for an individual currently residing in the same residence as an employee of the public employer who is not (1) married to the employee; (2) a dependent of the employee, as defined in the federal Internal Revenue Code; or (3) otherwise eligible to inherit from the employee under the laws of intestate succession in Michigan.

The bill would define "public employer" to mean the state, a city, village, township, county, or other political subdivision of this state; any intergovernmental, metropolitan, or local department, agency, or authority, or other local political subdivision; a school district, a public school academy, or an intermediate school district, as those terms are defined in Sections 4 to 6 of the Revised School Code; a community college or junior college described in Section 7 of Article VIII of the State Constitution of 1963; or an institution of higher education described in Section 4 of Article VIII of the State Constitution of 1963.

The bill specifies that if a collective bargaining agreement or other contract that is inconsistent with the new act is in effect for an employee of a public employer on the effective date that this legislation is enacted into law, then the requirements in this new act would not apply until the collectively bargained agreement or other contract had expired, or was amended, extended, or renewed.

Finally, House Bill 4770 specifies that the requirements of the new law would apply to all public employers to the greatest extent consistent with constitutionally allocated powers.

House Bill 4771 would amend the Public Employment Relations Act (MCL 423.215) to make domestic partner benefits a prohibited subject during collective bargaining.

Now under the law, certain topics cannot be negotiated during collective bargaining, because they remain entirely within the authority of managers to decide. Consequently, the topics prohibited under the law may not be discussed at the bargaining table, at the risk of being charged with an unfair labor practice. House Bill 4771 would expand the prohibited topics to include domestic partner benefits. Specifically under the bill, public employers and public employees would be prohibited from negotiating "health insurance or other fringe benefits for any co-resident of an employee of a public employer on terms that conflict with the Public Employee Domestic Partner Benefit Restriction Act" (the new law that would be created with the enactment of House Bill 4770).

FISCAL IMPACT:

According to the Office of the State Employer, costs to the state for providing benefits to other eligible adult individuals are estimated to be $8.0 million for the first year, and are expected to be higher in subsequent years as the program becomes more widely known and utilized. The effective date of the policy providing benefits to other eligible adult individuals is October 1, 2011. This cost estimate is based on the assumption of (1) a participation rate of about 66% of eligible state employees and (2) current State Health Plan rates.

Under HB 4770, the fiscal impact to the state would be a savings of the estimated $8.0 million in costs for providing such benefits to state employees beginning with FY 2011-12. Approximately 50%, or $4.0 million, of the estimated savings amount would accrue to the state's General Fund.

Comprehensive data are not available, so estimates cannot be made for what the savings would be for other public employers defined in the bill (i.e. city, village, township, county, political subdivision, school district, community college, public university, etc.).

HB 4771 would have no direct fiscal impact to the state.

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