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BILL



ANALYSIS

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Senate Bill 809 (Substitute S-2 as reported by the Committee of the Whole)

Sponsor: Senator Peter MacGregor

Committee: Veterans, Military Affairs and Homeland Security

CONTENT

The bill would enact a new statute to create the Office of the Michigan Veterans' Facility Ombudsman in the Legislative Council, and do the following:

- Require the Council to appoint a Michigan Veterans' Facility Ombudsman, who would be the principal executive officer of the Office.
- Authorize the Ombudsman to investigate complaints about an administrative act, medical treatment of a resident veteran, or a condition at a Michigan veterans' facility that posed a significant health or safety issue for which there was no effective administrative remedy or allegedly was contrary to law or policy.
- Permit the Ombudsman to investigate on his or her own initiative or upon receiving a complaint from a complainant (a resident veteran of a Michigan veterans' facility, a family member of a resident veteran, a legal guardian or individual with power of attorney for a resident veteran, or a legislator).
- Require the Ombudsman to be given access to residents' health records and other records in the possession of the DMVA or a veterans' facility.
- Require the Ombudsman to be granted access to inspect a facility at any time.
- Authorize the Ombudsman to interview employees or contractors of the Department of Military and Veterans Affairs (DMVA) or employees or contractors of a private contractor that operated a veterans' facility.
- Authorize the Ombudsman to hold informal hearings and request a person to appear and testify or give evidence.
- Permit the Legislative Council to hold a hearing upon the Ombudsman's request, subpoena witnesses, and examine records of the DMVA or a veterans' facility.
- Provide that the Ombudsman would not be required to conduct an investigation or hold a hearing on a complaint.
- Provide for confidentiality of communications between the Ombudsman and complainants.
- Provide that all records, reports, and communications relied upon, referred to, or prepared would be subject to the privacy provisions of the Federal Health Insurance Portability and Accountability Act and regulations promulgated under it.
- Require the Ombudsman to submit a report and make recommendations to the Council within 10 business days if he or she made certain findings after an investigation.
- Require the Ombudsman, when publishing an opinion adverse to a person or facility or the DMVA, to include a statement made by that person or facility or the Department in defense or mitigation of the Ombudsman's finding.
- Provide that a facility resident could not be penalized for filing a complaint, communicating a complaint to a legislator, or cooperating in an investigation.
- Require the Ombudsman to submit to the Council, the board of managers, and the Legislature a semiannual report on the conduct of the Office.

"Resident veteran" would mean a veteran who is a resident of a Michigan veteran's facility or an individual who is a resident of a facility by virtue of his or her relationship with a veteran.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on the State budget. As the bill would not appropriate funding for the implementation of its provisions, the fiscal impact would depend upon whether, and to what extent, the Legislature chose to appropriate funding for the proposed requirements. At present, House-passed House Bill 5294 (H-1), Article VIII, appropriations for FY 2016-17, proposes \$150,000 GF/GP for a Veterans' Facility Ombudsman.

Currently, the Legislature funds the Office of Legislative Corrections Ombudsman, within the Legislative Council. For fiscal year 2016-17, the Governor has recommended an appropriation of \$729,200 GF/GP for the Office. The Office has a staff of seven, consisting of the Ombudsman, a chief analyst, a senior analyst, three analysts, and an administrative secretary. The scope of the Office's responsibilities span over 30 correctional facilities in the State. Should the Legislature choose to mirror the structure of the Office of Legislative Corrections Ombudsman in providing appropriations for an Office of the Michigan Veterans' Facility Ombudsman, it is likely that the cost of providing ombudsman services would be significantly less for veteran's facilities than that required for correctional facilities since the scope of the proposed Ombudsman's responsibilities would cover only two facilities -- the Grand Rapids Home for Veterans and the D.J. Jacobetti Home for Veterans. It also is possible that the cost of an Office of the Michigan Veterans' Facility Ombudsman could be mitigated through the potential synergy of the two Offices working together and sharing resources to the extent feasible.

Date Completed: 5-18-16

Fiscal Analyst: Bruce Baker

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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.