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## **ELECTED OFFICIALS; PROHIBIT EARLY RETIREMENT**

**House Bill 4366 as passed by the House  
Sponsor: Rep. Dan Gustafson**

**House Bill 4367 as passed by the House  
Sponsor: Rep. George Mans**

**House Bill 4368 as passed by the House  
Sponsor: Rep. Eileen DeHart**

**House Bill 4369 as passed by the House  
Sponsor: Rep. Lingg Brewer**

**Committee: Public Retirement**

**Senate Bill 38 as passed by the House  
Sponsor: Sen. Dianne Byrum**

**Senate Committee: Appropriations  
House Committee: Public Retirement**

**Second Analysis (3-26-98)**

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

Local governments typically set up retirement systems for their employees, and these systems may also provide pension benefits for elected officials. Retirement programs in some Michigan cities have recently drawn attention, particularly some provisions that are seen as overly generous to the elected officials who are in authority to devise them. For example, the city of Lansing offered an early retirement program for its workers in 1992, which included incentives that resulted in significant increases in pensions for those who took advantage of it. The program was intended to produce budgetary savings for the city, as more senior, well-paid employees retired and some, though not all, were replaced by lower seniority, lower earning employees. In addition, the pension program was revamped so that new, replacement employees received a defined contribution program only, rather than the traditional and more expensive defined benefit program. However, when the mayor and the elected city clerk took advantage of the early retirement program, leaving office early with lucrative pensions, the result was public outrage, legal recriminations, and

what some have described as a breakdown of the public's trust in city government.

While service as an elected official is certainly demanding and deserving of just compensation, it is difficult to justify allowing elected officials to resign early from an elected term to accept an early retirement offer, as by definition these early retirement programs are designed to produce budgetary savings by reducing the workforce. Since a vacancy in an elected office is simply filled by appointment or special election, obviously this produces no savings for the unit of government. Instead, as in the Lansing situation, these episodes simply contribute to mounting cynicism about elected officials and government in general.

### ***THE CONTENT OF THE BILLS:***

Senate Bill 38 would create a new act, the Regulation of Early Retirement Benefits Act. Under the bill, despite any other provision of law, rule, ordinance, or resolution to the contrary, an elected public official

who was a participant in a retirement system by virtue of holding that elective office would be prohibited from retiring under an early retirement program (a program offered on a temporary or noncontinuous basis that alters the previously established age or service requirements for receiving a retirement allowance, or that alters the normal benefits available under the retirement system).

House Bills 4366-4369 would amend the acts governing public employee retirement systems to prohibit elected officials from participating in early retirement programs. House Bill 4366 would amend the Municipal Employees Retirement Act (MCL 38.1510b); House Bill 4367 would amend the State Employees Retirement Act (MCL 38.19g); House Bill 4368 would amend the Michigan Legislative Retirement System Act (MCL 38.1023f); and House Bill 4369 would amend Public Act 156 of 1851, which allows counties to establish retirement programs (MCL 46.12a). Each of these bills would specify that the act being amended would be subject to the Regulation of Early Retirement Benefits Act, proposed in Senate Bill 38.

Tie-bars. Each of the House bills is tie-barred to Senate Bill 38, and Senate Bill 38 is tie-barred to each of the House bills.

### **FISCAL IMPLICATIONS:**

According to the House Fiscal Agency, the bills would have no fiscal impact. (2-6-98)

### **ARGUMENTS:**

#### **For:**

Traditionally, local governments have broad powers to establish retirement systems for their employees under their general statutory operating authority. Some local governments (perhaps many) have included local elected officials under these plans. Unlike public retirement systems for state employees, teachers, legislators, and judges, these systems operate under local charters and ordinances, not under state statute. They are governed by boards of trustees made up of elected officials and employees representatives, and they are largely self-policed. It seems self-evident that the inclusion of elected officials under a special retirement program that grants extraordinary benefits as a means of reducing a local government's payroll is a blatant conflict of interest. The Lansing situation can be viewed as, at best, a series of blunders, and at worst, as a case of outrageously unethical behavior by

those entrusted with the public coffers. The legislature should act to see that this type of scenario is never replayed in another local unit in Michigan.

#### **Response:**

The legislation should go further. Recent news reports have revealed that elected city officials in Taylor will benefit from exceedingly generous pension benefits, at least in part because part-time service as council members will be counted as full-time service for purposes of calculating the retirement benefit. Additionally, one former official reportedly was allowed to count city pension service credit for years of service as a police officer, despite having cashed out of the police pension system (receiving a refund of his contributions) without becoming vested. These practices, and others that have reportedly occurred in Westland and other cities, are far outside what is considered standard practice in the state-administered pension programs.

#### **Against:**

Many feel strongly that these types of local issues are best left to local voters. In the Lansing case, for instance, public outcry resulted in the election of a new mayor and several city council members, who took a series of actions to rescind the improper pensions and to attempt to restore public trust in the workings of city government.

### **POSITIONS:**

There are no positions on the bill.

Analyst: D. Martens

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.