

2001 SESSION

INTRODUCED

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HOUSE BILL NO. 1678

Offered January 10, 2001

Prefiled December 14, 2000

A BILL for the relief of Katherine Miller Taylor.

Patron—Tate

Referred to Committee on Claims

Whereas, in 1997, Katherine Miller Taylor (Taylor) was employed by the Department of Mental Health and Substance Abuse Services (DMHSAS) as a Registered Nurse Clinician A at the Southwestern Virginia Mental Health Institute (SWVMHI) working on the night shift, and

Whereas, in October of 1997, Ms. Taylor applied for a voluntary transfer to a vacant Registered Nurse Clinician A position at SWVMHI on the day shift on the Geriatric Unit, and

Whereas, the vacancy was advertised internally and Ms. Taylor was the only internal applicant, and

Whereas, Ms. Taylor was subsequently interviewed for the position by a panel consisting of the Geriatric Unit Nurse Coordinator, the Geriatric Unit Director, and a Registered Nurse Clinician A from the Geriatric Unit, and

Whereas, Ms. Taylor was not hired for the position, and

Whereas, the position was subsequently advertised for recruitment in the general public resulting in an applicant from outside of state government being hired to fill the vacancy, and

Whereas, on or about November 11, 1997, Ms. Taylor initiated a grievance concerning the denial of the internal transfer, and

Whereas, Ms. Taylor requested a determination of whether the grievance qualified for a hearing from the Department of Employee Relations Counselors (DERC), and

Whereas, on March 4, 1998, the Director of DERC provided a written response to Ms. Taylor which indicated a determination that her grievance concerning the denial of the transfer was sufficient to warrant further exploration by a hearing officer, and

Whereas, the hearing officer found in Ms. Taylor's favor and ordered SWVMHI to transfer her to the position, and

Whereas, SWVMHI filed a demurrer asserting that the decision of the hearing officer was in the form of a recommendation, and because the issue in controversy at the hearing concerned a transfer into another position, the hearing officer could only recommend and not order such a transfer under the grievance procedure, and

Whereas, the Circuit Court of Smyth County ruled in favor of the demurrer, and

Whereas, DERC misapplied Section 2.1-116.06 C when it determined that the transfer grievance was sufficient to proceed to hearing, and

Whereas, based on DERC's determination that the issue should proceed to a hearing Ms. Taylor expended \$1,050.00 in legal fees, and

Whereas Ms. Taylor has no other means to obtain the relief, except by action of this body; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. § 1. *That there is hereby appropriated from the general fund of the state treasury the sum of \$ 1,050.00 for the relief of Katherine Miller Taylor, to be paid by check issued by the State Treasurer on warrant of the Comptroller upon execution of a release of all claims she may have against the Commonwealth or any agency, instrumentality, office, employee or political subdivision in connection with the aforesaid occurrence.*

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